

In the High Court of Punjab and Haryana at Chandigarh

**RSA- 1457 of 2018(O&M)
Date of Decision: 22.11.2018**

Om Vati and others

---Appellants

versus

Prem Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. S.K.Aggarwal, Advocate
for the appellants**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for permanent injunction restraining the appellants-defendants not to take forcible possession of suit land without getting the same partitioned has been decreed by the trial court vide judgment and decree dated 23.7.2015 and appeal preferred by unsuccessful defendants-appellants did not find favour with the District Judge, Kaithal and findings recorded by the trial court were affirmed without variance.

A relevant extract from Order dated September 13, 2018 passed by this court, reads as under:-

“.....The defendants-appellants claimed to have purchased some land from Santosh Rani on the basis whereof they are in exclusive possession of land measuring 6 kanals comprising

khasra No. 12 and 19 West but the Courts have held that since the vendors were not in exclusive possession of these khasra numbers, there is no occasion for delivery of possession in favour of the appellants.”

Counsel for the appellants has not disputed that in the revenue records there is no entry recording Santosh Rani to be in exclusive possession of land which was sold by her to the appellants-defendants. There is no entry in the revenue records in favour of the appellants-defendants recording them to be in exclusive possession of land purchased by them from Santosh Rani.

Counsel for the appellants has sought to rely upon facts elicited in cross examination of Prem Singh, respondent No. 1-plaintiff No. 1 wherein he had admitted that Santosh Rani is the wife of Gopal Singh, his elder brother and Gopal Singh before his death had been cultivating land comprising certain killas out of land in dispute. It is argued that admission on the part of Prem Singh to the aforesaid effect would show that Gopal Singh was in exclusive possession of land comprising certain killas which came to possession of Santosh Rani after death of said Gopal Singh.

I have heard counsel for the appellants and perused the paper book particularly the judgments impugned but find that the appeal sans merit and deserves to be dismissed.

Indisputably, the revenue records do not indicate that either Gopal Singh or his wife Smt. Santosh Rani was in exclusive possession of any part of joint land, in order to enable Santosh Rani to deliver possession of said land/khasra number to her vendees, appellants herein. The facts

elicited in cross examination of Prem Singh, pressed into service by counsel for the appellants, are not sufficient to record a finding that Gopal Singh was in exclusive possession of any part of land much less the land which is subject matter of sale deed executed by Santosh Rani. In the given scenario, I do not find an error much less perversity in consistent findings recorded by the courts, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay is of academic relevance.

(Rekha Mittal)
Judge

22.11.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No