

In the High Court of Punjab and Haryana at Chandigarh

RSA- 1503 of 2018(O&M)

Date of Decision:14.3.2018

Mohan Singh

---Appellant

vs.

Indu Bhaskar

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ram Kumar Chauhan, Advocate
for the appellant

Rekha Mittal, J.

The present appeal directs challenge against consistent findings recorded by the courts whereby suit for possession of land measuring 17 kanals 3 marlas, detailed in head note of the plaint was decreed by the trial court and judgment and decree passed by the trial court were affirmed in appeal by the Additional District Judge, Hoshiarpur.

In short, the respondent-plaintiff by claiming herself to be one of the co-owners of the suit land staked her claim for possession on the premise that the appellant/defendant is in unauthorized possession of suit land since 1½ years before filing the suit. The appellant/defendant raised certain preliminary objections noticed in para 3 of the judgment by the trial court. It was averred that the appellant cannot file counter claim for specific performance of agreements of sale due to litigation of the respondent/plaintiff with the State. It has further been averred that the

appellant is in possession of land since 1974 and he has acquired ownership by way of adverse possession.

The trial court framed issues, reproduced in the judgment, permitted the parties to adduce evidence in support of their respective claims. After having heard counsel for the parties in the light of materials on record, the trial court accepted claim of the respondent/plaintiff as issue Nos. 1 to 6 were answered in her favour. As has been noticed hereinbefore, findings recorded by the trial court were affirmed in appeal without any variance.

The sole submission made by counsel for the appellant is that as the matter with regard to suit land being declared surplus is pending before the authorities concerned after the writ petitions filed before the Punjab and Haryana High Court were disposed of, the respondent/plaintiff cannot claim herself to be owner of the suit land and seek recovery of its possession from the appellant/defendant.

I have heard counsel for the appellant, perused the paper book particularly the judgments passed by the courts.

Perusal of the pleadings noticed by the courts makes it evident that the appellant claimed himself to be owner on the basis of adverse possession meaning thereby that he has accepted the respondent/plaintiff to be owner of the suit land. Counsel has not disputed that in the jamabandi for the year 2003-04 on the basis whereof the respondent/plaintiff filed the suit, she is recorded to be one of the co-owners of land in question. Counsel for the appellant has failed to point out any materials on record to substantiate plea of the appellant that he has become owner of suit property

by way of adverse possession. The mere fact that some proceedings are pending in respect of land being declared surplus would be of no consequence for an unauthorized occupant of the land because in case the land in dispute is declared to be surplus, the State Government shall be entitled to recover its possession from its occupant, in accordance with law. The appellant cannot be allowed to continue in possession of the suit land on the pretext that proceedings under the Punjab Land Reforms Act, 1972 are pending.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

14.3.2018
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No