

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

-.-

RSA 5297 of 2014 (O&M)
Date of decision: 16.08.2018

Guljari and others

..... *Appellants*

Versus

Shakuntla and others

..... *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. R D Yadav, Advocate
for the appellants

-.-

Rekha Mittal, J. (Oral)

CM 12742 C of 2018

Allowed as prayed for. Annexures A-1 to A-3 are taken on record subject to just exceptions.

Main case

Shakuntla and others - respondents/plaintiffs filed suit for declaration that they are owners in possession of land described in headnote of the plaint and the appellants/defendants have no concern or connection with the same. They also sought consequential relief of permanent injunction restraining the defendants from causing interference in peaceful possession of the respondents/plaintiffs.

The trial Court (Additional Civil Judge (Senior Division), Rewari) dismissed the suit as well as counter claim filed by the appellants/defendants but at the same time, the appellants were left at liberty to file separate suit regarding their claim. The judgment and decree of the

trial Court became subject matter of challenge in appeal filed by Shakuntla and others, which came to be decided by the Additional District Judge, Rewari vide judgment and decree dated 22.07.2014. Though the Court in appeal has set aside findings recorded by the trial Court on material issues and also the impugned judgment and decree were ordered to be set aside but the Court has wrongly recorded that suit of the plaintiffs is dismissed.

Perusal of records would reveal that suit filed by the respondents/plaintiffs is based upon decrees dated 19.05.1986 and 31.05.1986. The appellants/defendants raised plea that the aforesaid decrees are the result of misrepresentation or fraud. The counter claim preferred by the appellants to this effect was dismissed but at the same time they were left at liberty to file a separate suit.

Counsel for the appellants would fairly inform that a separate suit was filed by the appellants by availing liberty allowed by the trial Court but the said suit has also been dismissed by the trial Court vide judgment and decree dated 29.05.2018 passed by Civil Judge (Senior Division), Rewari (Annexure A/2). Counsel has failed to point out an error much less perversity in findings recorded by the Court in appeal, warranting intervention by this Court.

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

(Rekha Mittal)
Judge

16.08.2018
mohan bimbira

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