

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA-1996-2018 (O&M)
Date of Decision: 26.07.2018

Jagtar Singh & others

--Appellants

Versus

Labh Singh & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Ashok Bhardwaj, Advocate for the appellants.

TEJINDER SINGH DHINDSA.J (Oral)

Plaintiffs Jagtar Singh, Narpal Singh and Harpal Singh sons of Sh. Harnek Singh instituted a suit for permanent injunction to restrain the defendants from interfering in their peaceful possession over the suit property measuring 8 kanal 8 marla and comprised in Khasra No.301 in Khatoni No.77, Khewat No.48.

Suit of the plaintiffs was decreed by the Trial Court vide decision dated 20.12.2016 and the defendant was restrained from interfering in the possession of the suit land as also to take any steps to diminish the value of the land/suit property.

Civil appeal having been preferred by the defendant, the same has been partly allowed vide judgement dated 12.1.2018 passed by learned Additional District Judge, Patiala and the finding of the Trial Court in so far as the restraint imposed from interfering in the suit property, has been reversed.

It is against such backdrop that the plaintiffs-appellants are in second appeal before this Court.

Learned counsel representing the appellants has vehemently argued that a compromise had been effected between the plaintiffs and

defendant Labh Singh with the intervention of the Panchayat on 16.6.2014 and such compromise had been duly adduced on record and proved as Ex.P-

3. It is urged that as per such compromise the exclusive possession of the plaintiffs over the suit property admeasuring 8 kanal 8 marla was duly proved and it is under such circumstances that the Trial Court had rightfully decreed the suit granting relief of permanent injunction. In the same limb it is contended that Labh Singh defendant had not disputed the compromise dated 16.6.2014 Ex. P-3 and in law once the opposite party has admitted on a specific factual aspect there was no requirement upon the plaintiffs to have adduced any further evidence to conclusively prove their possession. Yet another submission raised by counsel that the Lower Appellate Court while disturbing the findings of the Trial Court has not dealt with the compromise dated 16.6.2014 Ex.P-3.

Having heard counsel for the appellants and having perused the case paper book, this Court is of the considered view that the present appeal lacks merit and deserves to be dismissed.

Perusal of the impugned judgement dated 12.1.2018 passed by the Lower Appellate Court would reveal that there has been due appreciation of documentary evidence adduced on record in the nature of Jamabandi for the year 2011-2012 Ex.P-1, Copy of Khasra Girdawari for the year 2012-2013 Ex.P-2 and which reflected possession of the joint owners in the suit property. On a specific query having been put, Mr. Bhardwaj would concede that no revenue record had been adduced before the Trial Court which would reflect exclusive possession of the plaintiffs/appellants as regards the suit property admeasuring 8 kanal 8 marlas, which, otherwise comprised in a joint Khewat. It has further been

conceded that till date no partition has taken place as regards the joint holding.

The heavy reliance placed by counsel upon the compromise dated 16.6.2014 Ex.P-3 is misconceived. Admittedly, the suit property is part of a joint holding comprised in Khewat No.48. No partition till date has taken place. Even as per the plaintiffs/appellants the compromise dated 16.6.2014 Ex.P-3 was *inter se* plaintiffs-appellants and defendant Labh Singh. In other words, such compromise did not take within its sweep all the other co-sharers of the joint holding. As such, the compromise dated 16.6.2014 Ex. P-3 even if accepted, cannot bind the other co-sharers of the joint land holding to return a finding that plaintiffs-appellants were in exclusive possession of a certain parcel of land.

This Court is of the considered view that the impugned judgement dated 2.1.2018 passed by learned Additional District Judge, Patiala partly accepting the appeal of the defendant-respondent is based on due appreciation of evidence and the correct view has been taken. It would be apposite to notice that the partial restraint imposed by the Trial Court with regard to no steps to be taken to diminish the value of suit property, has been upheld by the Lower Appellate Court. The interests of the plaintiffs-appellants, as such, stand duly protected.

There is no merit in the instant appeal. Appeal does not raise any substantial question of law.

Appeal, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

26.07.2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No