

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 122

RSA-3217-2018 (O&M)

Date of decision : 28.11.2018

Mal Singh

..... Appellant

VERSUS

Gram Panchayat of village Kassabad

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Gurnam Singh, Advocate, for the appellant.

DEEPAK SIBAL, J. (ORAL)

The appellant filed a suit before the Civil Judge (Junior Division), Ludhiana (for short, the Trial Court) against the respondent-Gram Panchayat of village Kassabad, Tehsil and District Ludhiana, seeking therein permanent injunction to restrain the respondent from interfering in the peaceful possession of the appellant and from dispossessing him from the property measuring 29 kanals detailed and described in the plaint (for short, the suit property). The case set up by the appellant was that his father Sadhu Ram was in actual cultivating possession of the suit property. He died in the year 1992 leaving behind eight sons which included the appellant. After Sadhu Ram's death the appellant was in exclusive possession of the suit property in which he had installed a tubewell and had also planted eucalyptus trees. When the respondent-Gram Panchayat threatened to dispossess the appellant, he filed the instant suit for the afore referred reliefs.

On being put to notice, the respondent-Gram Panchayat filed a detailed written statement submitting therein that the appellant had no concern with the suit property as the same vested with the Central Government; the respondent had been utilising the suit property for the

welfare of the entire village; the suit property was being given on lease and the lease money so received was being spent for the development of the village; recently also the suit property had been auctioned in favour of one Manjit Singh, who was in actual physical possession of the suit property and that the aforesaid Manjit Singh had not been intentionally impleaded by the appellant.

The Trial Court after sifting the evidence adduced by both the parties which had come on record, through judgment and decree dated 08.12.2016, decreed the appellant's suit by restraining the respondent from dispossessing the appellant from the suit property except in due course of law. The respondent challenged the aforesaid judgment and decree passed by the Trial Court through an appeal which was accepted by the Appellate Court vide judgment and decree dated 06.02.2018 which is the subject matter of challenge in the present second appeal.

Learned counsel for the appellant submits that the appellant was in possession of the suit property which vested with the Central Government and no eviction proceedings have been initiated by the Gram Panchayat against him, therefore, the appellant could not be dispossessed from the suit property. In support of his arguments, learned counsel for the appellant has drawn the attention of this Court to the revenue record from the year 1996 onwards showing possession over the suit property to be of his father Sadhu Ram.

The above submissions made by learned counsel for the appellant have been considered but no merit in the same is found.

On a specific query posed by this Court as to who and on what

basis the appellant's father Sadhu Ram got into possession of the suit property, learned counsel for the appellant drew a complete blank. Also when this Court sought learned counsel for the appellant to refer to any revenue record prior to the death of Sadhu Ram showing as to how he had come into possession of the suit property, learned counsel for the appellant fairly submitted that there was no such record. Thus, the appellant has not been able to discharge his burden to prove his father's legal possession over the suit property as also his own. A perusal of the entire evidence which was led by the parties further reveals that there is no revenue record whatsoever showing the appellant to be in possession of the suit property. There is also nothing on record to reveal the installation of a tubewell or plantation of eucalyptus trees by the appellant in the suit property as averred by him.

The revenue record from the year 1996 which was produced by the appellant which shows that the suit property was possessed by Sadhu Ram is not worth consideration as admittedly, Sadhu Ram died in the year 1992. Thus, the Appellate Court has rightly ordered dismissal of the appellant's suit.

No question of law much less any substantial question of law is found to arise in the present appeal.

Dismissed.

28.11.2018
shamsher

[DEEPAK SIBAL]
JUDGE

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