

In the High Court of Punjab and Haryana at Chandigarh

RSA-3229 of 2018 (O&M)

Date of Decision:- 29.5.2018

Rajbir and others

.....Appellants

Versus

Devender Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Devinder Singh, Advocate, for the appellants.

GURVINDER SINGH GILL, J.

Appellants-defendants have filed this appeal challenging judgment and decree dated 18.12.2017 passed by learned Additional District Judge, Jhajjar whereby the appeal filed by the appellants against decretal of suit for permanent injunction filed by the respondent-plaintiff Devender Singh has been dismissed.

The respondent-plaintiff had filed a suit seeking permanent injunction averring therein that he is owner in possession of agricultural land situated in village Kharparwas, Tehsil Matanhail, District Jhajjar and that the defendants were strong headed persons and were threatening to interfere in his possession. The defendants in their written statement took a stand that defendant No.1 Rajbir is real brother of plaintiff-Devinder Singh and has an equal share in the suit property in accordance with the partition proceedings whereas the remaining defendants are wife and sons of defendant No.1. The parties were put to proof the following issues:

“1. Whether plaintiff is owner in possession of agricultural

land mentioned in para No.1 of the plaint? OPP.

2. Whether plaintiff is entitled for decree of permanent injunction and in alternative for decree of possession, in case the plaintiff is dis-possessed during the pendency of the suit? OPP.
3. Whether the suit of plaintiff in present form is not maintainable? OPD.
4. Relief.”

The respondent-plaintiff apart from himself stepping into the witness box led documentary evidence in the shape of revenue record. However, the defendants have not led any evidence to rebut the case of the plaintiff. The learned lower Court upon appraisal of the evidence on record especially Jamabandi for the year 2007-08 i.e. Ex.P-1 and also the documents pertaining to proceedings of partition i.e. Ex. P-2 Naksha Bay, Ex.P-3 Naksha Jim, Ex.P-4 Sanat Taksim, Ex.P-5 copy of order dated 27.4.2007 and Ex.P-6 mutation No.810 which indicate that the Assistant Collector 1st Grade vide order dated 27.4.2007 (Ex.P-5) had ordered for partition of the property and the suit property had fallen to the share of the plaintiff. The plaintiff has also brought on record relinquishment deeds in his favour i.e. Ex.P-7, Ex.P-8 and Ex.P-9 along with mutation Nos.897 and 898 i.e. Ex.P-10 and Ex.P-11.

In the absence of any evidence to the contrary, there is no room to doubt the claim of the plaintiff. So much so none of the defendants have chosen to appear into the witness box so as to rebut any of the assertions made by the plaintiff. It is evident that the suit property had fallen to the share of the plaintiff consequent upon the partition proceedings and the effect thereof is also reflected into the revenue record. There is nothing on record to suggest that the order regarding partition Ex.P-5 passed by the Assistant Collector 1st

Grade had ever been challenged or being set aside. The concurrent findings to this effect of the Courts below do not warrant any interference.

Finding no merit in the present appeal, the same is hereby dismissed.

May 29, 2018
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(GURVINDER SINGH GILL)
JUDGE

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