

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA-4607-2017 (O&M)
Date of Decision: 25.07.2018

Narinder Singh & others

--Appellants

Versus

Balwinder Singh & others

--Respondents

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

Present:- Mr. R.S. Sidhu, Advocate for the appellants.

TEJINDER SINGH DHINDSA.J (Oral)

Plaintiffs(respondents herein) filed a suit seeking permanent injunction restraining the defendants from interfering and dispossessing them from the exclusive, lawful and peaceful possession of the suit property as described in the head note of the plaint. Suit was decreed vide decision dated 6.5.2016 passed by the Trial Court. A civil appeal preferred by the defendants has been dismissed by the Lower Appellate Court vide judgement dated 25.7.2017 and as such, judgement of the Trial Court has been affirmed.

Resultantly, the defendants are in second appeal before this Court.

Brief facts are that the plaintiffs sought the relief of injunction simpliciter on the pleadings that they are in exclusive and lawful possession of the suit land. Earlier in point of time mother of plaintiffs no.1 and 2 and grandmother of plaintiffs no.3 and 4 were owners in possession. Upon demise of Pritam Kaur, mutation of inheritance was sanctioned in favour of plaintiffs no.1 and 2 and father of plaintiffs no.3 and 4 on the basis of an oral Will dated 15.1.1976. It was pleaded that the defendants have no

concern with the suit property and are threatening to interfere in their possession in respect of the suit land.

Suit was contested by the defendants taking a stand that the suit land was part of a joint land holding and partition proceedings had culminated in the year 1963 and on the basis of which defendants were coming in possession of the suit property.

On the pleadings of the parties the following issues were framed by the Trial Court:-

- “1. Whether the plaintiffs are entitled to Permanent Injunction as prayed for?OPP*
- 2. Whether the present suit is not maintainable?OPD*
- 3. Whether the plaintiffs have not come to the court with clean hands?OPD*
- 4. Relief.”*

Upon due appreciation of evidence and after hearing counsel for the parties, suit was decreed. Judgement of the Trial Court while relief of permanent injunction in favour of plaintiffs (respondents herein) has been affirmed by the Lower Appellate Court.

Counsel representing the defendants/appellants vehemently argued that the suit land which was part of a joint land holding had been partitioned through the competent revenue court way back on 4.10.1963. He further contends that based upon partition proceedings even warrant of possession had been issued and physical possession had been delivered to Puran Singh i.e. the predecessor of the appellants and an entry in *Rapat Roznamcha* to this effect had also been entered.

Having heard counsel for the appellants at length, this Court is of the considered view that there is no merit in the instant appeal and the same deserves dismissal.

A concurrent finding of fact has been recorded by the courts below based on revenue entries i.e. *Khasra Girdawari* Ex. P-4 to P-8 as also *Jamabandi* Ex.P-1, which reflects possession of the plaintiffs/respondents upon the suit property. Suffice it to observe that entries in the revenue record would carry a presumption of truth unless the same are rebutted. The partition proceedings adverted to by counsel for the appellant would not be of any consequence inasmuch as the same concededly were not reflected in the revenue record.

In the facts and circumstances of the case, no infirmity is found in the view taken by the Trial Court and affirmed by the Lower Appellate Court in granting the relief of injunction simpliciter in favour of the plaintiffs/respondents.

No warrant for interference is made out.

The instant appeal does not raise any question of law much less a substantial question of law.

The appeal is dismissed.

Since the main appeal itself has been dismissed, pending application(s), if any, shall also stand disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

25.07.2018
lucky

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