

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.120

RSA No.413 of 2018 (O&M)

Date of decision: 05.07.2018

Sat Pal (since deceased) through his LRs and othersAppellants

versus

Ved Pal (since deceased) through his LRs and anotherRespondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ravi Malik, Advocate
for the appellants.

* * *

DEEPAK SIBAL, J. (Oral)

The respondents who were original plaintiffs filed a suit seeking therein a decree for permanent injunction to restrain the appellants/defendants from interfering in their possession over the suit property as described by them in the plaint. The respondents-plaintiffs claimed to be owners in cultivating possession of the suit property from the time of their forefathers. Such claim was based *inter alia* on the ground that they had installed a tubewell in rectangle no.65, killa no.8 in the aforesaid land for irrigating the entire suit property as also an Electricity meter. They submitted that they filed an application for correction of the khasra girdawari before the AC-II Grade, Assandh but when the appellants/defendants came to know of the same they sought to dispossess the respondents leading to the filing of the suit.

The Trial Court decreed the suit filed by the respondents and the appellate court agreeing with the reasoning given by the Trial Court dismissed the appeal filed by the appellants giving them a cause to

file the present second appeal.

Learned counsel for the appellants has been heard and the record perused.

The main crux of the arguments of the learned counsel for the appellants is that on the date of filing of the suit, the application filed by the respondents before the AC-II Grade, Assandh, for correction in the khasra girdawari was pending and that being so, they would be deemed to be not in possession of the suit property and therefore, suit for injunction was not maintainable. Instead, the respondents should have filed a suit for possession.

No merit is found in the above submission.

Admittedly, the application for only change in the khasra girdawari had been filed by the respondents. Such application had been filed much before the institution of the suit and was for only correction in the revenue record. This fact was also duly disclosed by them in the plaint. The correction was made on 18.05.2012 through an order which was admittedly not challenged by the appellants. That order thus attained finality.

Even otherwise, the witnesses produced by the appellants themselves, while appearing before the trial court, admitted that the possession of the suit property was with the respondents. They further admitted that the tubewell which was installed in the suit land belonged to the respondents and the same was being used by them to irrigate the suit property. Such admissions by the appellants' witnesses completely demolish their case.

No other argument was raised by learned counsel for the appellants.

In view of the above, there is no reason in fact or in law to interfere in the concurrent findings recorded by both the trial court as also the appellate court. No question of law much less a substantial question of law is found to arise in the present appeal.

Dismissed.

(DEEPAK SIBAL)
JUDGE

July 05, 2018
Jyoti 1

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