

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-4833-2018 (O&M)

Date of decision: September 12, 2018

Karnail Singh & others

...Appellants

Versus

Dharambir

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sandeep Lather, Advocate for the appellant.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/respondent filed a suit for declaration and injunction in respect of land, comprised in Khasra Nos.51//6/1 and 52//10/1, forming part of land measuring 32 Kanals, bearing plot No.12, situated at Bir Farm, Hansi, which was allotted to him by the State of Haryana, vide conveyance deed dated 1.3.2013. It was alleged that Agricultural Department of the State of Haryana, vide conveyance deed No.8218 dated 1.3.2013, allotted a piece of land measuring 32 Kanals in plot No.12 to the plaintiff. Prior to the said allotment also, plaintiff was in possession of the same in the capacity of tenant. However, defendants illegally occupied Khasra Nos.51//6/1 and 52//10/1, which had been allotted to the plaintiff. Suit was resisted by the defendants. In their written statement, they pleaded that they are in physical possession of the suit property, on which they had also constructed their

house more than 30 years ago. They pleaded that the allotting authority did not inspect the suit land and thus, allotment was made against the physical possession of the defendants. After hearing both the parties and perusing oral as well as documentary evidence, the trial court decreed the suit, declaring the plaintiff to be possession of the suit property in view of conveyance deed dated 1.3.2013, and that possession of defendants over Khasra Nos.51//6/1 and 52//10/1 is illegal. Relief of permanent injunction, prohibitory and mandatory injunction was also granted in favour the plaintiff. It observed that plaintiff had legally been allotted the suit land and defendants were encroachers over those specific Khasra numbers. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. Mere existence of house of the defendants over a portion of the suit land, does not disentitle the plaintiff from the ownership of the suit property. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

(RAJAN GUPTA)
JUDGE

September 12, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No