

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 4476 of 2013(O&M)
Date of Decision:26.3.2019

Daljeet Singh and another

---Appellants

vs.

Avtar Kaur

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Zorawar Singh, Advocate for
Mr. N.S.Shekhawat, Advocate
for the appellants

None for the respondent

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for specific performance of agreement dated 8.5.2007 regarding plot measuring approximately 1½ biswa situated within the red line of village Ballomajra and depicted in the rough site plan (Annexure-A) and permanent injunction restraining the respondent-defendant from interfering in peaceful possession of the plaintiffs-appellants over the suit property and alienating the suit property to any body else except the plaintiffs, was dismissed by the trial court vide judgment and decree dated 8.10.2011 and the plaintiffs remained unsuccessful before the Court of Additional District Judge, SAS Nagar Mohali as the court affirmed findings of the trial court without variance.

Counsel for the appellants would argue that a family settlement

took place between sons of Rachan Singh and as per the family settlement, property in dispute fell to the share of Gurdev Singh husband of the respondent. Bara bearing khasra No. 102 fell to share of father of the appellants-plaintiffs. Avtar Kaur defendant wanted to sell the bara bearing khasra No. 102 to which she had no right. Plaintiffs objected to the same and with the intervention of common friends, the matter was resolved on 8.5.2007 by way of an agreement whereby the defendant was allowed to sell bara bearing khasra No. 102 and in lieu thereof, the defendant agreed to give up suit property in favour of the appellants-plaintiffs. It is further argued that the respondent-defendant sold bara bearing khasra No. 102 that had fallen to share of father of the plaintiffs but she did not transfer the property in question in favour of the plaintiffs-appellants. It is further argued that even if plea of the appellants for specific performance of agreement dated 8.5.2007 is not allowed, they are entitle to permanent injunction restraining the respondent from interfering in their peaceful possession of the suit property.

There is no representation on behalf of the respondent, earlier being represented by a counsel.

I have heard counsel for the appellants, perused the paper book particularly the agreement dated 8.5.2007.

Both the courts have consistently held that there is no clause in the compromise that if the defendant fails to accept ownership of the plaintiffs over the suit land, they are entitle to seek specific performance of the compromise/agreement. Counsel for the appellants is not in a position to successfully assail these findings, concurrently recorded by the courts.

As such, I do not find an error much less infirmity in findings recorded by the courts rejecting claim of the appellants for specific performance of agreement/compromise deed dated 8.5.2007.

So far as plea of the appellants for grant of permanent injunction against interference in possession of suit property is concerned, nothing has been mentioned in the document Annexure P.8 that possession of the suit property was delivered to the appellants. Counsel has failed to point out any materials on record to establish plea of the appellants with regard to their possession over suit property which is a plot. No sooner claim of the appellants seeking specific performance is rejected, Avtar Kaur defendant would continue to be owner of the suit property. As per the settled position in law, possession of a vacant plot follows title. In this view of the matter, contention of the appellants for grant of permanent injunction is patently erroneous and liable to be rejected.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

26.3.2019
paramjit

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