

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**RSA No.1392 of 2014 (O&M)
Date of Decision.20.02.2019**

Gagan Singh and another

...Appellants

Vs

Tripta Devi and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. K.S. Dadwal, Advocate and
Ms. Neha Jain, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

The regular second appeal is directed at the instance of the appellants-defendants against the concurrent finding of fact whereby suit at the instance of the respondents-plaintiffs for permanent injunction qua forcible interference and dispossession of khasra No.73//8 measuring 8 kanals, khasra No.58//14 min (6-0), khasra No.73//3(8-0) reflected vide Ex.P3 and P4 jamabandies to be in possession of Gurbachan Singh, predecessor-in-interest of the plaintiff, has been decreed by the trial Court and affirmed in appeal before the lower Appellate Court.

Respondents-plaintiffs asserted that Gurbachan Singh, their father was owner in possession of the property and defendants had forcibly attempted to interfere into their peaceful possession.

Defendants opposed the suit and came out with the plea that Gurbachan Singh, Gagan Singh and Balbir Singh were brothers and had divided the land. Gurbachan Singh got 12 kanals in khasra No.73//3(8-0) and 4 kanals out of Khasra No.73/8. Balbir Singh got

10 kanals land out of khasra No.59//2/21(8-0) and 2 kanals out of Khasra No.58//14. Similarly Gagan Singh got 10 kanals i.e. 4 kanals out of khasra No.73//8 and 6 kanals out of khasra No.58//14. Since then all the three brothers were in possession of their respective shares.

Both the parties led evidenced in support of their pleadings and produced revenue records.

Mr. Dadwal, learned counsel appearing on behalf of the appellants submitted that the parties to the *lis* have already partitioned the property and as per the stand taken in the written statement had been fallen to their share. But owing to error/inadvertence of incorrect entries, an application for correction of the revenue entry was submitted before the competent authority, which was allowed and thereafter on remand, matter is again pending before the Financial Commissioner in revision/appeal preferred by the respondents-plaintiffs. The decision of the aforementioned proceedings would have effect on the suit for injunction.

I am afraid aforementioned argument is not sustainable, as injunction is always based upon the subsisting cause of action which accrued at the relevant point of time. Ex.P3 and P4 jamabandies for the year 2003-2004 reflected the possession of Gurbachan Singh in khasra numbers aforementioned. It is not discernible as to whether partition effected amongst the parties was actually reflected in the revenue record or subject matter of adjudication before the Revenue Court but not relevant for the purpose of decision of a simplicitor suit for injunction.

In view of aforementioned facts, I do not subscribe to the arguments of Mr. Dadwal to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 20, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No