

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

RSA No.2435 of 2018(O&M)
Date of decision: 18.11.2019

Mohan Lal and another

... Appellants

Versus

Sangeeta Rani and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Gopal Soni, Advocate, for
Mr. Akshay Jindal, Advocate, for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by respondents No.1 & 2 (plaintiffs) was decreed by the trial Court vide judgment and decree dated 04.04.2014, and as the appeal preferred against the said decree by the appellants (defendants No.3 & 4) failed and was dismissed on 11.08.2017, they are before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiffs prayed for injunction restraining defendants, their agents, servants etc. from encroaching upon or forcibly dispossessing the plaintiffs from the suit property as described in the cause title of the plaint. In brief, the case set out by the plaintiffs was that they were owners in possession of a plot measuring 300 sq. yards duly depicted in green colour in the site plan, and comprised in khasra No.207/2, pursuant to sale deeds dated 22.06.2007 & 12.11.2007. In fact, Pt. Chet Ram being holder of a share in *shamilat deh* had transferred the land, which post consolidation was

comprised in khasra No.207/2 (4-1) in the revenue estate of Darra Kalan Thanesar, in favour of Om Parkash to the extent of 1/4th share and in the name of Shri Narayan his son to the extent of 3/4th share, vide registered sale deed dated 29.01.1960. Om Parkash, vide gift deed dated 01.02.1961, transferred his share in favour of his son Vishav Bandhu Gupta. And, post death of the donee, his LRs, namely, Kusum, Adarsh, Aviral and Bhavna succeeded to his 1/4th share. The said heirs of late Vishav Bandhu Gupta being holder of 1/4th share had transferred 75 sq. yards of land, which formed part of the suit property, to plaintiff No.2 vide sale deed dated 22.06.2007. Likewise, other transferee Shri Narayan transferred his 3/4th share i.e. 225 sq. yards in the suit land to plaintiff No.1, vide sale deed dated 12.11.2007. Therefore, plaintiffs were owners of the suit land measuring 300 sq. yards. The defendants had earlier forcibly occupied the other land that was part of this particular khasra number situated in north of the suit land shown in yellow colour, then belonging to the original owners Shri Narayan and Vishav Bandhu Gupta. The said owners had brought a suit against defendants No.1 & 2 and one Smt. Maya Devi for possession, which was decreed on 25.11.2004. For defendants No.1 & 2 had joined hands with defendants No.3 to 5, and threatened to occupy the suit land, without any right, title or interest therein, thus, the suit.

In the written statement filed by the defendants, it was pleaded that there existed a plot measuring 300 sq. yards that was exclusively owned and possessed by them. The boundaries of the suit property as depicted in the plaint were alleged to be false and baseless. Further, plaintiffs had admitted the possession of the defendants qua boundaries on the north-side, which possession over khasra No.207/2 was legal, valid, old and as owners.

The alleged sale deeds dated 22.06.2007 and 12.11.2007 were fake and fabricated documents, as vendors of the sale deeds were neither owners nor in possession of the suit property. In fact, the defendants had constructed a boundary wall measuring 7 feet in height, by collecting money from Balmiki biradari. Further, there existed a Mandir in the suit property prior to filing of the suit. The vendors of the sale deeds were never held to be either owners or in possession of the suit property and, therefore, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that plaintiffs to establish their title proved on record sale deeds dated 22.06.2007 (Ex.P1) and 12.11.2007 (Ex.P2). And an analysis of the said sale deeds revealed that plaintiffs had purchased suit land from the LRs of Vishav Bandhu Gupta, and Shri Narayan. The claim of the plaintiffs was further fortified as Shri Narayan (PW2) testified in his deposition that earlier he was the owner in possession of the suit property, and at the time of execution of the sale deed possession of the suit land was handed over to the plaintiffs. Further, to prove that even their vendors or predecessor-in-interest held a valid title to the suit property, they proved sale deeds dated 29.01.1960 (Ex.P4) and 01.02.1961 (Ex.P5). Thus, plaintiffs proved that they were exclusive owners of the suit property. As regards possession, Arun Kumar (PW1) testified in his deposition that broken pieces of utensils that were lying at the spot belonged to him, and he used to visit the suit property every day. His testimony was also corroborated by the statement of Shri Narayan (PW2), who happened to be the previous owner of the suit land, and specifically deposed that possession of the suit land was delivered to the plaintiffs. He

also deposed that plaintiffs had constructed a boundary wall around the suit property and demarcation was also carried out at the spot. The suggestion put to Shri Narayan (PW2) that suit land was reserved for Balmiki community, rather showed that defendants claimed the suit land to be reserved for a particular caste. However, nothing was brought on record by the defendants to show if the suit land was reserved for Balmiki community. Even otherwise, all the witnesses examined by the defendants conceded in their cross-examination that they had no proof of ownership qua the suit land. Apparently, the testimonies of the defendants' witnesses even as regards possession over the suit property were contradictory. Further, even earlier the defendants had tried to encroach upon a portion of the land comprised in khasra No.207/2, and pursuant to the order of the court they were dispossessed from the encroached area. In the wake of the above, the only and the inevitable conclusion that could be reached: the plaintiffs duly proved their claim and were, thus, entitled to injunction prayed for.

On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the conclusions arrived at were either contrary to the record or suffered from any material illegality. Thus, no ground is made out to interfere with the concurrent findings recorded by both the Courts.

The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

18.11.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO