

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.3755 of 2018(O&M)
Date of decision: 07.11.2019

Ratti Ram (deceased) through LRs

... Appellant

Versus

Sheonarain and others

... Respondents

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

Present: Mr. Varun Gupta, Advocate, for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the respondents/plaintiffs was decreed by the trial Court vide judgment and decree dated 17.11.2014, and as even the appeal preferred against the said decree failed and was dismissed on 03.10.2016, the defendants 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 filed a suit for injunction. In brief, the case set out by them was that their father Dhansi, including the plaintiffs, had four sons and a daughter:

Dhansi
!

! **!** **!** **!** **!**
Chanderbhan Sheo Narayan Rameshwar Ram Niwas Rewati
(died (plaintiff No.1) (died (plaintiff No.2)
unmarried and unmarried and
issueless) issueless)

The suit property consists of a land measuring 10 kanals 7 marlas, comprised in khasra Nos.229/1 (2K 18M), 229/2 (1K 13M), 230 (5K 16M), situated in the revenue estate of village Jagdoli, Tehsil and District Mohindergarh. Rameshwar, who happened to be the real brother of the plaintiffs, was in cultivating possession of the suit property and recorded as *gair maurusi* in the revenue record. He died unmarried and issueless. Whereafter, plaintiffs have been in cultivating possession of the suit land as *gair maurusi* and even constructed tin-shed etc. Defendant No.1 happened to be neighbour of the plaintiffs, defendants No.2 to 4 were strangers, whereas defendant No.5 was a Sarpanch. However, for they sought to interfere in the peaceful possession of the plaintiffs, thus, the suit.

In the written statement filed by defendant No.1, it was pleaded, *inter alia*, that Ratti Ram (defendant No.1) was owner in possession of the land measuring 3 kanals 6 marlas, comprised in khasra No.230/2. Father of defendant No.1, namely, Jawalaram had purchased a land measuring 2418 kanals 15 marlas, comprised in specific khasra numbers situated in village Jhagroli, half of land measuring 18 kanals 17 marlas from Laxman vide sale deed dated 22.05.1981, and since then he has been the owner in possession of the suit property, which was partitioned by the Assistant Collector Ist Grade, wherein defendant No.1 was allotted the land comprised in khasra Nos.230/2, 223, 276, 281 and 355. Thus, 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 had prayed for injunction qua the suit property comprised in khasra Nos.229/1 (2 kanals 18 marlas), 229/2 (1 kanal 13 marlas), 230 (5 kanals 16 marlas), total measuring 10 kanals 7 marlas. Concededly, plaintiffs happened to be the real brothers

of Rameshwar, who died unmarried and issueless. Jamabandi for the year 2000-01 (Ex.P2) revealed that Rameshwar was in possession of the suit property. Mutation No.323 (Ex.P3) revealed that Sheo Narayan (plaintiff No.1) had inherited the property of Rameshwar. Mutation No.2748 (Ex.P7) revealed that suit land was owned by the Gram Panchayat, but plaintiffs were in occupation and possession thereof. On the contrary, claim of the defendants was predicated upon sale deed No.211 dated 22.05.1981 (Ex.DW2/A). However, khasra numbers in which the said land was comprised in were not mentioned in the said sale deed. None other than Ratti Ram (DW1) conceded in his statement that he had no concern with the land falling in khasra Nos.229/1, 229/2 & 230. Although defendants examined Badri Parsad, Deed Writer (DW3), to prove sale deed dated 22.05.1981, but he also conceded that no khasra numbers were mentioned in the said sale deed. Kishori Lal, Naksha Navees (DW4), too conceded in his statement that he did not serve any notice upon the plaintiffs before making the site plan. Further, he did not know as to in which khasra numbers the suit property was comprised in. Still further, he did not know the site plan (Ex.DW4/A) prepared by him belonged to which khasra numbers. Plaintiffs had prayed for injunction simplicitor. For plaintiffs were found to be in actual physical possession of the suit property, and the specific case of the defendants themselves was that they had no right, title or interest in the suit land comprised in khasra Nos.229/1, 229/2 and 230, the only and the inevitable conclusion that could be reached: the plaintiffs were entitled to the 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.
No ground is made out to interfere with the findings recorded by both the Courts.

The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

07.11.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO