

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

RSA-3772-2018

Date of Decision: October 03, 2019

Lakhbir Singh and others

...Appellants

Versus

Jagir Singh through LRs and others

...Respondents

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

Present: Mr. Balbir Singh Jaswal, Advocate,
for the appellants.

ARUN PALLI, J. (ORAL)

Suit filed by the appellants-plaintiffs was dismissed by the Trial Court, vide judgment and decree, dated 05.02.2016, as even the appeal preferred against the said decree failed, and was dismissed on 01.12.2017, they are before this Court in Regular Second Appeal. Parties to the *lis*, hereinafter shall be referred to by their original position in the suit.

Plaintiffs prayed for a declaration that they were owners in possession of the suit property, measuring 34 Kanals 13 Marlas, as depicted in the cause title of the plaint, on the basis of family settlement, dated 30.03.1965. And, defendants be restrained from dispossessing the plaintiffs forcibly as also from alienating the suit land to any body by way of sale, mortgage, exchange or in any other manner.

In defence, defendants denied any such family settlement, and pleaded that no such settlement, as alleged, was ever reflected in the revenue records, therefore, the parties were still joint owners in possession in the estate of late Thakur Singh.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that plaintiffs failed to lead any evidence to show that if the family settlement was ever acted upon. Thus, all the co-sharers continued to be the joint owners in the joint khata. Significantly, plaintiffs also set up a plea of adverse possession though the claim qua title on the basis of family settlement and the plea of adverse possession were mutually destructive. Once the plaintiffs failed to show that suit property was ever partitioned between the parties pursuant to any family settlement, and the property being still joint, the suit filed by the plaintiffs was wholly misconceived. Not just that, the jamabandi (Ex. P-7) showed that the parties were still recorded to be joint owners in possession of the suit property. Further, though plaintiffs claimed a decree for permanent injunction restraining the defendants from causing their dispossession from the suit property, but they failed to lead any evidence to show if they were in exclusive possession of the suit property. At any rate, the defendants could not be enjoined from alienating the suit land to the extent of their respective shares.

On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the conclusions concurrently arrived at by both the Courts were either contrary to the

record or suffered from any material illegality. 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

October 03, 2019

P Kapoor

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO