

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

RSA-3820-2018 (O&M)

Date of Decision: October 15, 2019

Savittri Devi

...Appellant

Versus

Gurmit Kaur and another

...Respondents

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

Present: Mr. Keshav Pratap Singh, Advocate,
for the appellant.

ARUN PALLI, J. (ORAL)

Suit filed by the plaintiff-appellant was dismissed by the Trial Court, vide judgment and decree, dated 02.07.2016, as even the appeal preferred against the said decree failed, and was dismissed on 24.01.2018, she is before this Court in Regular Second Appeal. Parties to the *lis*, hereinafter shall be referred to by their original position in the suit.

A decree for possession was prayed for, qua the property shown in Red colour in the site plan appended with the plaint, and comprised in Khasra No. 42//11/2, bearing Khatauni No. 359/528, situated in the Abadi of Bhaddi Road, Tehsil Balachaur, District S.B.S. Nagar.

In brief, the case set out by her was that she happened to be a co-sharer in a joint khata but was in exclusive possession over disputed portion, i.e. the suit property. The defendants in her absence illegally encroached upon and took forcible possession of the suit property.

Thus, the suit.

In the written statement, the defendants admitted the plaintiff to be a co-sharer, but denied that she was in exclusive possession of the suit property, for, the property was still joint amongst the co-sharers, and was not yet partitioned. Neither the defendants encroached nor obtained forcible possession of the portion, alleged to be in possession of the plaintiff.

Upon consideration of the matter in issue and the evidence on record both the Courts concurrently concluded that though the plaintiff claimed to be in exclusive possession of the suit property, which formed part of a joint khata, as co-sharer, but the jamabandi (Ex. P-3) revealed that the suit property had not yet been partitioned. Nothing was brought on record either to show if the plaintiff was in exclusive possession of any portion of the joint holding. Likewise, no evidence was led to show the alleged dispossession of the plaintiff by the defendants. No demarcation report was proved on record to establish her claim being in exclusive possession over the suit property. Not just that, Amrik Singh, Draftsman, who prepared the site plan (Ex. P-2) conceded in his statement that he had not examined the revenue record of the suit property. That being so, the only and the inevitable conclusion that could be reached: the plaintiff failed to substantiate her claim for lack of evidence.

On being pointedly asked, learned counsel for the appellant 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 15, 2019

P Kapoor

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO