

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.4200 of 2018 (O&M)
Date of Decision : 05.11.2019

Shanti Devi

.....Appellant

Versus

Gram Panchayat Village Rundhi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Rajender Kumar, Advocate for
Mr. Mahendra Singh Tewatia, Advocate for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the appellant-plaintiff was dismissed by the trial Court vide judgment and decree dated 06.05.2017, and as even the appeal preferred against the said decree failed and was dismissed on 03.04.2018, she is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for a decree for injunction claiming herself to be the owner in possession of a gait/nohra which was part and parcel of khewat No.458, khatoni No.495, Rect. No.97 Killa No.1/5(0-4), 1/6 (0-4), total measuring 8 marlas, situated within the *abadi deh* of village Rundhi, Tehsil and District Palwal.

In brief, the case set out by her was that she had constructed a boundary wall and installed a gate towards the north-western side of the wall of plot No.1/5. The gate of the plaintiff opened towards the *rasta* of

gram panchayat for her ingress and outgress in the suit property. The said *rasta* was existing for last many years and being used by inhabitants of the village. The plot of defendant No.3 was adjacent towards western side of the plaintiff's plot. For, defendant No.1 in collusion with defendants No.2 and 3 were bent upon to interfere in her possession and close the gate, thus the suit.

In the written statement filed by defendants No.1 to 3, it was denied that plaintiff was owner in possession of the suit property. In fact she intended to grab the property of defendant No.1 i.e. gram panchayat. The plaintiff had even encroached upon some portion of the property of gram panchayat (*rasta*) and had raised a boundary wall and even installed a gate. 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: the case set out by the plaintiff was that she had an apprehension that defendants intended to dispossess her from the suit land by demolishing the boundary wall. Meaning thereby, her claim was predicated upon mere apprehension. However, she failed to adduce any evidence to show if defendants ever attempted to interfere in her possession or cause her dis-possession. No site plan was produced that could show the exact area in possession of the plaintiff. Accordingly, the only and the inevitable conclusion that could be reached: the plaintiff was not entitled to injunction prayed for, 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 recorded 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 below. The appeal being devoid of merit is accordingly dismissed.

05.11.2019

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No