

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

**RSA No.6166 of 2017 (O&M)  
Date of Decision.27.05.2019**

Sucha Singh and others

...Appellants

Vs

Subhash and another

...Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Karan Nehra, Advocate  
for the appellants.

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**AMIT RAWAL J. (ORAL)**

**C.M. No.16083 of 2017**

For the reasons stated in the application, delay of 605 days in re-filing of the appeal is condoned.

Application is allowed.

**RSA No.6166 of 2017**

The appellants-plaintiffs have not been successful in claiming injunction against defendants in respect of plot marked as ABCDEF to be in his possession more than 60 years situated within the *abadi deh/lal dora* of village Kacchwa, Tehsil and District Karnal on the premise that along with suit property, there are three rooms in the northern side and one room in southern side. There is a wall from point B to C and A to E but defendants wanted to take possession forcibly and illegally, thus, cause of action accrued to file the suit.

Defendants opposed the suit and alleged that plaintiffs have not come to the court with clean hands and tried to suppress true and material facts. On merits, it was stated that grandfather of

defendants was true owner of the suit property. The suit property was part of old haveli comprised in Khewat No.220, Khatoni No.370, Khasra No.317/3(6-10). Sham Sunder was also owner of another adjoining property to Khasra No.317/3 i.e. Khewat No.959/862, Khatoni No.1426, Khasra No.481 (2-1) as reflected in the jamabandi for the year 2006-2007. Both the khasra numbers were outside the *lal dora* and *abadi deh* of the village. In the year 1971, Sham Sunder Jawa alienated the land comprised in Khasra No.481 measuring 2 kanals 1 marla by way of registered sale deed in favour of Ram Sarup and thereafter, vide registered Will dated 28.04.1997 in favour of defendant No.2, thus, on his demise, defendant No.2 on 27.7.2001 had become owner in possession of the suit property. Plaintiff No.4 is alleged to have purchased 89'6"=189 sq. yards with one room out of khasra No.317/3 by way of agreement dated 26.05.1998. It was a mistake in the agreement regarding directions towards North, South, East and West. The aforementioned agreement also proved ownership in possession of defendant No.2.

The trial Court framed as many as six issues.

In support of pleadings, plaintiffs examined five witnesses and brought on record Ex.P1 to P16 i.e. copies of ration card, water and electricity bills and Ex.PW5/A to PW5/D i.e. four Wills and other marked documents whereas defendants also examined five witnesses and brought on record Ex.D1 to D33.

During the pendency of trial, local commissioner was also appointed.

Mr. Karan Nehra, learned counsel appearing on behalf of

the appellants submitted that defendants have not been able to establish their possession whereas electricity connection and the photographs established their possession and therefore, Courts below ought to have protected their possession being long and settled, in view of the ratio decidendi culled out by Hon'ble Supreme Court in **Rame Gowda (D) by LRs Vs. M. Varadappa Naidu (D) by LRs (2004) 1 SCC 769** reiterated in **Poona Ram Vs. Moti Ram (D) through LRs and others** rendered in Civil Appeal No.4527 of 2009 decided on 29.01.2019. Objections against the local commissioner's report, which proved that property was outside *lal dora* remained undecided, therefore, long and settled possession of the plaintiffs cannot be disturbed except in due course of law. In such circumstances, decree of injunction qua forcible dispossession was most appropriate and innocuous.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no force and merit. In case of simpliciter injunction, plaintiff is required to prove long and settled possession, which remained unproved. Even against local commissioner report, in view of ratio decidendi culled out by Division Bench of this Court in **Balbir Dewan Cold Storage and General Mills Vs. Naveen Chander 1989 PLJ 247**, objections are not required. Plaintiffs miserably failed to discharge the onus. In such circumstances, dismissal of the simpliciter suit for injunction was inevitable.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact and law

rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

**(AMIT RAWAL)**

**JUDGE**

**May 27, 2019**

Pankaj\*

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| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |