

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

RSA No.599 of 2020(O&M)

Date of decision: 19.2.2020

Bhupinder Kumar

.....Appellant

VERSUS

Sukhwinder Kaur

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. H.S. Deol, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against decree and judgment dated 04.12.2019 passed by the Appellate Court whereby appeal against judgment and decree dated 21.08.2018 passed by the trial Court dismissing suit of the respondent/plaintiff for grant of permanent injunction in respect of suit land measuring 20 kanals was accepted, impugned judgment and decree is set aside and suit filed by the respondent/plaintiff was decreed to the effect that appellant/defendant is restrained from interfering in exclusive possession of the plaintiff and dispossessing her forcibly and illegally from the suit property except in due course of law.

Perusal of the judgment passed by the Court in appeal would reveal that the Court has relied upon certain admissions made by the appellant in the course of cross examination, noticed in para 13 of the judgment.

Counsel for the appellant would argue that respondent/plaintiff has to stand on her own legs and she cannot derive any

advantage of weakness of defence. It is further argued that in para 1 of the plaint, the respondent has pleaded that she is joint co-owner, co-sharer, in joint possession of her respective share over the suit land, sufficient to negate her plea of being in exclusive possession of land purchased from Raghbir Singh and Amarjit Singh sons of Dhian Singh son of Kirpa Ram.

I have heard counsel for the appellant, perused the paper-book particularly the judgments passed by the Courts and copies of documents supplied during the course of hearing.

Indisputably, Sukhwinder Kaur purchased land measuring 20 kanals from certain co-owners vide registered sale deed, though in para 1 of the plaint, she has so stated, as highlighted by counsel for the appellant but in para 2 thereof it has been mentioned that co-sharers gave possession to the plaintiff at the spot through agreement dated 10.09.2016 in the presence of attesting witnesses. It is further averred that defendant is doing the work of property dealer in the area who is also a co-sharer in the suit land and is threatening to dispossess the plaintiff, cut/remove the trees, change the nature and interfere in peaceful use and enjoyment of the plaintiff of her respective share. The appellant appeared in the witness box and made vital admissions with regard to possession of the respondent/plaintiff after she purchased the suit land. He has even gone to the extent of saying that 12 kanals of land which was purchased by him is also in possession of respondent/plaintiff. As per settled position in law, admission is the best evidence unless it is explained or retracted. In the revenue record, the respondent/plaintiff is shown to be owner in possession of the suit land. Keeping in view the evidence on record particularly the statement of defendant/appellant, it is difficult to accept contention of the appellant that findings recorded by the Appellate Court are either the result

of misreading of evidence or incorrect recording of admissions made by the appellant/defendant. In this view of the matter, I do not find any reason to intervene in the judgment of Court in appeal.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. However, nothing stated hereinbefore shall prejudice right of the appellant to seek appropriate remedy in law for recovering possession of land of his share. At the same time, any observations made hereinbefore will not cause any prejudice to right of other co-sharers in the property.

FEBRUARY 19, 2020

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no