

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(102) CM-5533-C-2020 in/& RSA-1578-2020
Date of Decision: December 22, 2020

Bhupinder Singh .. Appellant

Versus

Paramjit Kaur .. Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sumit Jain, Advocate, and
Mr. Pankaj Jain, Advocate, for the applicant-appellant.

Mr. Vijay Lath, Advocate, for respondent-caveator.

HARSIMRAN SINGH SETHI, J.(ORAL)

CM-5533-C-2020

Present application has been filed for preponing the date of hearing of the main appeal i.e. RSA No.1578 of 2020 which stands adjourned to 08.01.2021.

Learned counsel for the applicant-appellant submits that the warrant of possession has already been issued by the competent Court of law while executing the orders, which are impugned in the present appeal and therefore, the hearing of the main appeal be preponed otherwise, the same will be virtually rendered infructuous.

Keeping in view the above, the application is allowed and hearing of the main appeal i.e. RSA No.1578 of 2020 is preponed from 08.01.2021 to today.

RSA-1578-2020

Learned counsel for the appellant contends that the trial Court has wrongly allowed the suit filed by the respondent-plaintiff and the appeal

preferred by the appellant, has been rejected by the lower Appellate Court without appreciating the evidence on record.

Learned counsel for the appellant submits that the plaintiff-respondent has failed to prove her ownership over the disputed house. Learned counsel for the appellant further submits that there was an oral family settlement between the appellant and his brother Piara Singh, after which the land in dispute was given to the appellant by his brother Piara Singh and the appellant is in peaceful possession of the same since the year 1994 and the oral family settlement, on the basis of which appellant-respondent is claiming the ownership of the disputed area, has been rejected without appreciating the evidence on record.

Learned counsel for the appellant argues that the house tax of the said property is being paid by the appellant and even the electricity meter installed at the premises is in the name of the appellant. Learned counsel for the appellant further argues that keeping in view these facts coupled with the fact that possession of the suit property remained in the possession of the appellant since 1994 without any objection, the contention of the appellant-defendant that the suit property came to his share in view of the oral settlement was liable to be accepted.

I have heard learned counsel appearing for respective parties and have gone through the record with their able assistance.

Learned counsel for the appellant concedes that as per the revenue record, the ownership of the disputed property is in the name of the respondent-plaintiff. Learned counsel for the appellant also concedes that after the death of the father of the appellant, 5 killas land came to his share, which he has already sold in the year 1990.

It is a matter of fact that as per the evidence already on record, no defence witnesses including the appellant himself has been able to describe as to when the oral settlement was arrived at and what were the terms and conditions of the same. This oral settlement needs to be proved on the basis of the evidence led for the reason that the appellant had already sold the land which came to his share and why, appellant's brother Piara Singh gave him the property which came in the share of Piara Singh. In the absence of these questions being answered in the favour of the appellant keeping in view the evidence on record, the bald statement of the appellant of oral settlement cannot be accepted.

Learned counsel appearing on behalf of the appellant argues that uninterrupted possession of the property by the appellant itself is sufficient to demolish the presumption that the revenue record, which describe the ownership in favour of respondent plaintiff is worthy acceptance.

The evidence which is already on record including the jamabandi of the disputed property, the respondent-plaintiff is the owner of the suit property and a mutation has already been entered in the name of the respondent-plaintiff namely Paramjit Kaur i.e. the widow of the Piara Singh. The appellant has not been able to establish that the said jamabandi has been recorded contrary to the law or fact and those jamabandis have never been challenged by the appellant at any given point of time despite having knowledge of the same. Uninterrupted permissive possession cannot override the revenue record especially when the appellant has failed to prove the oral family settlement. Even the defence witnesses have not been able to answer as to when the said oral settlement was arrived at and on

what terms and conditions. Though, the possession of the property remained with the appellant since 1994 but no benefit of the same can be awarded in favour of the appellant so as to give him right or title to the suit property as the said possession was permissive possession as it has come on record that Piara Singh had put the appellant in possession of the same.

Learned counsel for the appellant has already conceded that even the municipal record, which earlier was in favour of the appellant, has already been corrected in a suit filed by the respondent-plaintiff and as of now, the said record of the Municipality relating to the property in question, is in the name of the plaintiff-respondent. Once, all the record relating to the property describes the respondent-plaintiff as the owner and the evidence on record proves that the possession of the appellant was permissive, no interference is called for in the findings recorded by the trial Court as well as the lower Appellate Court as the plaintiff has failed to prove his defence of oral settlement.

Further, learned counsel for the appellant has not been able to point out as to how, the findings recorded by the Courts below are perverse. In the absence of any perversity pointed out, no interference is called for by this Court in the present appeal.

Keeping in view the above, no question of law arises for the determination in the present appeal and the present appeal is consequently dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

December 22, 2020
harsha

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No