

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

**104**

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**RSA No. 1693 of 2018 (O & M)  
Date of decision : 17.1.2020**

**Gopal Singh (deceased) through LRs** **.....Appellants**  
**Vs.**

**Chajju Ram and others** **.....Respondents**

**Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present : Mr. Vishal Aggarwal, Advocate, for the appellants  
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**Rajbir Sehrawat, J. (Oral)**

It is defendants' second appeal; challenging the concurrent findings recorded by both the Courts below in a suit filed by the plaintiff/respondents seeking injunction against the dispossession of the suit property; except in due course of law.

Stated in extreme brief, the facts of the case are that the plaintiff-Chajju Ram had filed a suit claiming that he is in cultivating possession over the suit property as tenant since the year 1970-71. It was further pleaded that originally the suit land was belonging to the owners of the village but the land was gifted by them to 'Mandir' of the village. However, the priest of the temple had given the land in question to the plaintiff and was receiving the rent for the same. Despite the long, established and continuous possession of the plaintiff over the suit land, the defendants were bent upon to dispossess the plaintiff from the suit land, without any legal basis.

The defendants/appellants filed written statement claiming therein that, in fact, they are in possession of the suit land. The plaintiff wanted to grab the property of the temple by taking advantage of the wrong entries in the

revenue records. Still further, it was denied that the plaintiff was paying any rent to the priest of the temple. All other averments in the suit were also denied by the defendants.

The parties led their respective evidence. The plaintiff examined himself as a witness and also produced on record *jamabandi* for the years 2011-12 and 1971-72 as well as the *khasra girdawaries* for the period of 1977 to 1982 and from 2012 to 2014. On the other hand, the defendants did not step into the witness box and only examined Baldev Singh as DW1. Besides this, no other documentary evidence was produced.

The trial Court recorded a finding in favour of the plaintiff qua the long established possession and decreed the suit. Aggrieved against that, the defendants/appellant preferred the appeal before the District Judge, Pathankot. However, even the lower Appellate Court dismissed the appeal filed by the defendants/appellants. Hence, the present appeal has been filed.

While arguing the case, learned counsel for the appellants has raised only one argument that since the plaintiff has been recorded in the revenue record as *gair dakhlikar*, therefore, being a non-occupancy tenant, he had no right even to file a suit for injunction. Hence, the suit was liable to be dismissed as non-maintainable. In support of his argument, learned counsel for the appellants has relied upon the judgment of this Court rendered in **Mohinder Singh v. Manmohan Singh, 1988 (2) RCR (Civil) 651**, to contend that since the plaintiff has not paid the rent, therefore, he was not entitled to any injunction.

Having heard learned counsel for the appellants and having perused the file, this Court does not find any substance in the argument of

learned counsel for the appellants. It is even not in dispute that neither the plaintiff claims to be the owner nor the defendants. The plaintiff claimed only to be in possession and has sought an injunction not to be dispossessed; except in due course of law. He has led sufficient evidence, in the form of revenue record; which carries presumptuous truth, that he is in long and established possession. On the other hand, the defendants have not led any evidence whatsoever, even to remotely suggest their possession over the suit property. Therefore, by any means, the appellant/defendants cannot resist the suit filed by the plaintiff. Needless to say that temple is not a party here, nor there is any dispute between the stated owner; the temple; and the plaintiff. Therefore, the Courts below have not committed any illegality or irregularity in passing the judgments/decrees.

Although learned counsel for the appellants has relied upon the judgment of **Mohinder Singh** (supra), however, this Court finds that the said judgment does not have even remote application in the facts of the present case. In the abovesaid case the interim orders passed during pendency of the suit were upheld by this Court, declining the injunction in favour of the plaintiff on the ground that he had not shown the payment of rent to the owner as such. In the present case, there is not even dispute ever raised by the owner that he is not receiving the rent from the plaintiff. In any case, the decree itself is protecting the plaintiff against any action except in due course of law. Hence, the rights of the owner or persons having right or interest in the said land; to evict the plaintiff as per law, would always be available. But so far as the defendants are concerned, they have no locus-standi to contest the possession of the plaintiff, in view of the fact that they do not claim to be

owner and they have not led any evidence on file even to suggest their possession over the suit property. Secondly; Section 9 CPC provides that all suits are maintainable except as prohibited by the law. The judgment relied upon by learned counsel for the plaintiff/appellants does not refer to any provision, which prohibits the suit filed by the plaintiff in that case, nor has the counsel brought to the notice of this Court any such provision in the present case. Accordingly, the said judgment is not even relevant to the facts of the present case.

No other argument was raised.

Hence, finding no merit in the present appeal, the same is dismissed.

**(RAJBIR SEHRAWAT)**  
**JUDGE**

**17.1.2020**

*Ashwani*

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| Speaking/Reasoned | : | Yes/No |
| Reportable        | : | Yes/No |