

.... Appellant

Versus

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V.P.Sangwan, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in regular second appeal against detailed judgment passed by learned First Appellate Court. The plaintiff filed a suit for possession with respect to the land measuring 1 Bigha, 4 Biswa Pukhta. The plaintiff claims that he along with proforma defendants are co-owners and defendants have forcibly occupied the land in dispute for the last 2-3 years. The plaintiff further pleaded that on demarcation, it has been found that the defendants are in illegal possession of the suit land. The defendants filed written statement while submitting that Phulu and Jai Ram sons of Patram, common ancestors of the plaintiff and proforma defendants had given their land to the community of Dhankan and Chamaran for their residence and they are in possession since 1927-28.

Learned trial Court decreed the suit, however, learned First Appellate Court after reappreciating the evidence, found that in the revenue record, the land in dispute is recorded in possession of the community of Dhankan and Chamaran. The Court further found that the defendants have constructed their houses and are residing there for 78 years before filing of the suit. Thus, the Appellate Court reversed the judgment of the trial Court.

Learned counsel for the appellant submitted that in the ownership column of the Jamabandi, it is the plaintiff and proforma defendants who are recorded to be owners. He further submitted that no doubt, in the revenue record, column of possession records possession of members of Dhankan and Chamaran community from 1927-28, however, individual possession of the defendant is not recorded. He, hence, submits that the learned First Appellate Court has erred in decreeing the suit.

This Court has considered submission of learned counsel and with his able assistance gone through the judgments passed by the Courts below. Learned counsel appearing for the appellant fairly admitted that neither the appellant nor the proforma defendants belong to the community of Dhankan and Chamaran. From a look at the memo of parties, it is apparent that the present suit has been filed against 17 defendants. Only the plaintiff has filed the suit although the owners are 20 in number. Once, the defendants are proved to be in settled possession for approximately 78 years, this Court does not find it appropriate to interfere.

Learned counsel failed to draw attention of the Court to any substantive misreading or non-reading of evidence. The plaintiff never objected when the defendants constructed their houses.

Appeal dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

(ANIL KSHETARPAL)
JUDGE

12.02.2020
Maninder

Whether speaking/reasoned	:	Yes
Whether reportable	:	No