

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1029 of 2021 (O&M)

Date of Decision: 28.10.2021

Satbir and Others

... Appellant(s)

Versus

Dharambir

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Jai Bhagwan and Mr. Sandeep Kumar Rana, Advocates
for the appellant(s).

Anil Kshetarpal, J.

1. The defendants assail the concurrent finding of fact arrived at by both the Courts below while decreeing the suit for permanent and mandatory injunction.

2. The plaintiff-Dharambir (respondent herein) and the appellant No.1 (Satbir-Defendant No.1) are brothers. The appellant No.2 and 3 are the nephews of the respondent (plaintiff). The plaintiff filed a suit claiming that he is the owner in possession of a residential house and the defendants should be restrained from interfering in his possession. The defendants filed a counter-claim with a prayer that the plaintiff should be directed to dismantle the gate affixed. During the pendency of the suit, the plaintiff led evidence to prove that he has constructed the residential house wherein the electricity connection has been issued in his name. Sh. Singhraj, the father of plaintiff and defendant No.1, appeared in evidence and deposed that the property belongs to the plaintiff. The various witnesses produced by the

defendants, namely Rattan Singh (DW.3), Jagmener alias Jaggu (DW.4), Padam (DW.6), Pawan (DW.7) and Jai Parkash (DW.8) admitted in their evidence that the plaintiff is in the exclusive possession of the residential property. Hence, both the Courts below decreed the suit.

3. Heard the learned counsel representing the appellants at length.

4. The learned counsel representing the appellants contends that the plaintiff filed the suit on the basis of a family settlement/deed of compromise dated 07.05.2016 in the pleadings, whereas he produced the compromise deed dated 14.05.2016. He further submits that the aforesaid compromise deed has not been proved and therefore, it could not be relied upon.

5. The trial Court as well as the First Appellate Court have noticed that when the appellant No.1 appeared in evidence, he admitted his signatures on the aforesaid settlement. Furthermore, the various witnesses produced by the defendants (appellants) have admitted the exclusive possession of the plaintiff. The appellants have failed to produce any documentary evidence to prove their right, title or interest in the property. Moreover, Sh. Singhraj, father of the appellant No.1 and the grandfather of the appellant No.2 and 3, also appeared in evidence and supported the case of the plaintiff.

6. Keeping in view the aforesaid facts, a small discrepancy with regard to the date of compromise deed is insignificant. Moreover, there is a concurrent finding of fact arrived at, against the appellant, which is not proved to be suffering from any substantial error. Hence, no ground is made out to interfere in the said findings. Hence, the present appeal is dismissed in

limine.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

October 28, 2021
“DK”

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