

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3223 of 2009 (O&M)
Date of decision: 05.09.2022

Avtar Singh and another

..Petitioners

Versus

M/s Kalyan Singh Kirpal Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Verma, Advocate
for the petitioners.

Mr. Prateek Mahajan, Advocate and
Mr. Ashish Gupta, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

The defendants in a suit for recovery of possession filed under Section 6 of the Specific Relief Act, 1963, assail the correctness of the judgment and decree passed by the trial Court on 03.03.2009.

The suit filed under Section 6 of the Specific Relief Act, 1963, is a summary suit and no appeal against such decision is maintainable. Hence, this revision petition has been filed.

The plaintiffs filed a suit on 12.01.1993 claiming that they have been forcibly dispossessed by the defendants on 19.11.1992. The plaintiffs' claim is based on the judgments and decrees dated 12.06.1974 and 25.01.1992, acknowledging their possession. The defendants claim that they have purchased the property through sale deed dated 16.11.1992.

The trial Court has held that since the plaintiffs were found in possession of the disputed property on account of the judgments and decrees dated 12.06.1974 and 25.01.1992, therefore, they are proved to have been forcibly dispossessed, hence, entitled to restoration of possession.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioners (defendants) submits that the property purchased by the defendants is comprised in Plot Nos.71 and 72, whereas the judgments and the decrees dated 12.06.1974 and 25.01.1992 are with respect to plots bearing No.58, 59 and 60 carved out on the property of Golden General Mills. Hence, he submits that the suit property and the property in the said judgments is different.

On being questioned, the learned counsel representing the petitioners admits that this defence was never put forth when the suit was contested. Thus, at the stage of revision petition, the petitioners cannot be permitted to make out a new case.

In any case, the learned counsel representing the plaintiffs has stated that Defendant No.1-Avtar Singh while appearing in the witness box has admitted that the plots bearing No.58, 59 and 60 have now been re-numbered as Plot No.71 and 72.

After restoration of possession of the suit property to the plaintiff, if permissible in law, the petitioners can file a regular suit for possession after proving their superior right, if any.

In view thereof, the revision petition is dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

September 05, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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