

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

RSA No.821 of 2022(O&M)
Date of Order: 19.04.2022

Hoshiyar @ Hosiar Singh and others

..Appellants

Versus

Savita and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Bali, Advocate
for the appellants.

ANIL KSHETARPAL, J(Oral)

While assailing the findings of fact arrived at by the First Appellate Court, the defendants have filed the present appeal. Defendant no.1 along with his two brothers had filed a Civil Suit No.575/02/07, Hoshiar Singh and others vs. Hari Singh, claiming the occupancy rights. Their suit was dismissed by the trial Court on 24.11.2010. Before the First Appellate Court, their possession qua the land owned by defendant no.1 and 2 (in that suit) was protected. The Regular Second Appeal, filed before this Court, was also dismissed on 05.02.2019.

The plaintiffs filed the present suit for grant of permanent injunction to restrain the defendants from interfering in their illegal possession. They claim to be owners on the strength of sale deeds executed by Hari Chand and others. The trial Court dismissed the suit while observing that the plaintiffs can seek possession in accordance with law.

However, the First Appellate Court found that in the previous

suit, the defendants were found in possession of land which has fallen to the share of Harish Chander and Satish Chander both sons of Sh. Keshav Chander. They were owners to the extent of 12 kanals and 16 marlas.

Keeping in view the aforesaid facts, the Court reversed the judgment and decree passed by the trial Court.

The learned counsel representing the appellant contends that in the previous suit, they were found in possession being tenant and therefore, decree of permanent injunction was granted.

The operative part of the judgment passed by the First Appellate Court in the previous round is extracted as under:-

“In view of above discussion, the appeal filed by the plaintiff merits acceptance partly. It is held that plaintiff/appellant is entitled to protect his possession being tenant and therefore, entitled to decree of permanent injunction against forcible and illegal dispossession from suit land owned by respondents/defendants no.1 and 2. However, appeal of plaintiff against respondent/defendants no.3 to 6 and 11 to 15 qua land owned by respondents/defendants no.11 to 15 is hereby dismissed. No costs.”

It is apparent that the possession of the defendants was protected only with respect to the land in the share of defendant no. 1 and 2, namely, Harish Chander and Satish Chander. Their appeal with respect to the remaining defendants was dismissed. The aforesaid judgment was upheld by the High Court vide judgment dated 05.02.2019.

In view thereof, the First Appellate Court has not committed any error in granting decree of an injunction in favour of the plaintiffs, particularly when their ownership is not in dispute.

Hence, no ground to interfere is made out.

Dismissed.

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

April 19, 2022
nt

(ANIL KSHETARPAL)
JUDGE

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