

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

RSA-2855-2019(O&M)

Date of decision: 07.07.2022

Somdutt and others

....Appellants

Versus

Beg Raj Saini and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Himanshu Sharma, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

While assailing the correctness of the slightly modified judgment passed by the First Appellate Court, the plaintiffs have come before this Court in second appeal. The trial court though declined to grant the relief of declaration that the plaintiffs are owners in possession, however, granted limited relief of injunction against forcible dispossession. The First appellate Court has refused to grant relief of injunction while affirming the fact arrived at by the trial court on the question of declaration. The property in dispute is located in the residential area of the village, which is commonly known as Abadi. The plaintiffs claim that most of the residents belonging to Brahmin community have left the village and started residing somewhere else. They further claim that they are in possession of the property where they store fire wood and bricks and tie their cattle. The defendants contested the suit asserting that the plaintiffs have no connection with the land. It has been asserted that the plaintiffs are no more residing in the concerned village. Plaintiffs No.1 and 2 are residing in village Dharsu

whereas plaintiff No.3 is residing in Village Mehrapur. The property in dispute is located in village Abdul Nagar. The plaintiffs have failed to produce any record or any other document to prove their ownership. The Court further found that the plaintiffs failed to prove any right, title or interest in their favour. However, the trial court granted a limited relief of injunction against forcible dispossession on the ground that the plaintiffs are proved to be in possession. In the first appeal filed by the defendants, the Appellate Court reiterated the findings of the fact arrived by the trial court with regard to the failure of the plaintiffs to prove his ownership. The court further found that the report of the Local Commissioner relied upon by the trial court does not prove the plaintiffs to be in possession, particularly when they are admittedly, not residing in the village.

Furthermore, storing of fuel wood or bricks or tethering cattle on the property is not evidence of exclusive possession of the property. The villagers do store their fuel wood casually at any place that is found to be vacant. On the basis of above discussion, it is not appropriate to grant the decree of injunction. Hence, no ground to interfere is made out.

Dismissed.

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

07.07.2022

rekha

Whether speaking/reasoned : Yes/No

(ANIL KSHETARPAL)
JUDGE