

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-455 of 1998(O&M)
Date of Order: 17.05.2022

Bakhshish Singh and another

..Appellants

Versus

Amolak Singh (since deceased) through
LRs and others

..Respondents

COCN No.205 of 2018

Pargat Singh and another

...Petitioners

Versus

Bakhshish Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.G.Chaudhry, Advocate
for the appellants (in RSA No.455 of 1998)
for respondent no.1 and 2 (In COCN No.205 of 2018)

Mr. K.S.Dadwal, Advocate
for the petitioners (in COCN No.205 of 2018)
for the respondents (in RSA No.455 of 1998)

ANIL KSHETARPAL, J(Oral)

C.M.No.961-C-2018

For the reasons mentioned in the application, which is supported by an affidavit, the application is allowed, subject to all just exceptions. The legal representatives of deceased Amolak Singh-respondent mentioned in paragraph 5 of the application are brought on record for the purpose of defending this appeal only.

The amended memorandum of parties is taken on record.

MAIN

The plaintiffs assail the correctness of the judgments and decrees passed by the First Appellate Court. They filed a suit for grant of

decree of permanent injunction in order to restrain the defendants from interfering into their peaceful possession over property-Taur No.5, measuring 1 kanal and 10 marlas.

The plaintiffs claims that they being in possession have applied to the Tehsildar Sales, for the allotment of suit property.

Defendant no.1 and 2 contested the suit while assailing that the previous suit filed by the plaintiffs was dismissed as withdrawn on 26.11.1991.

The learned trial court on appreciation of the evidence found that the plaintiffs have no right, title or interest in the property, however, the trial Court granted limited relief to the plaintiffs while directing the defendants not to dispossess the plaintiffs except in due course of law.

The defendants filed an appeal, afterwards.

Before the First Appellate Court, the learned counsel representing the plaintiffs suffered a statement that they do not claim any right, title or interest in the property. On reappraisal of the evidence, the First Appellate Court has recorded a finding that the plaintiffs are neither proved to be in possession nor they are entitled to the decree of permanent injunction.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the judgments and decrees passed by the Courts below along with the record of the First Appellate Court which was requisitioned

The learned counsel representing the appellants contends that the First Appellate Court has erred in reversing the decree passed in favour of the plaintiffs. He submits that the contesting defendants failed to prove

that the suit property is part of the land allotted to them or vice-versa.

It is apparent from the careful reading of the Court record that the plaintiffs claim that they have applied for the allotment to Tehsildar Sales. Admittedly, no allotment in their favour has ever been made. Furthermore, the defendants have been allotted more than 6 kanals of land. Hence, before the First Appellate Court, the learned counsel representing the appellants correctly made a statement that the plaintiffs do not claim any right, title or interest in the property. The First Appellate Court on reappreciation of evidence has found that the plaintiffs have failed to prove their peaceful possession on the said parcel of the land. A Local Commissioner was appointed and the First Appellate Court on examining the record has returned a finding of fact. Such finding of fact cannot be reversed in the absence of any perversity.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Dismissed.

COCP-205-2018

The learned counsel representing the petitioner in COCP does not press this petition in view of the order passed in the Regular Second Appeal No.455 of 1998.

Dismissed as not pressed.

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

May 17, 2022

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(ANIL KSHETARPAL)
JUDGE

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