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

RSA No.1751 of 2022 (O&M)

Date of decision: 27.09.2022

Gurjant Singh and another

..... Appellants

versus

Baljeet Singh and others

..... Respondents

RSA No.1762 of 2022 (O&M)

Shingara Singh and another

..... Appellants

versus

Baljeet Singh and others

..... Respondents

RSA No.1866 of 2022 (O&M)

Sukhdev Singh @ Harvdev Singh and others

..... Appellants

versus

Baljeet Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Charanjit Singh Bakhshi, Advocate
for the appellants.

TRIBHUVAN DAHIYA J.

The aforesaid three appeals filed by the defendants, are being decided together, as they arise out of the judgments passed by the trial Court, dated 14.01.2020, as well as the lower Appellate Court, dated 07.04.2022, pertaining to the same suit property and between the same parties.

2. This is the defendants' second appeal against the judgment of the trial Court, dated 14.01.2020, whereby respondents-plaintiffs' (hereinafter referred to as 'the plaintiffs') suit for possession of the vacant plot measuring approximately 1225 Sq. yards situated within *lal lakeer* of village Rodewal, Tehsil and District Patiala, was decreed. The appeal against the same was dismissed by the lower Appellate Court vide judgment and decree dated 07.04.2022.

3. The facts in brief are, the plaintiffs pleaded to be the owner of the plot in question. It was purchased by their father/grand-father, Teja Singh, from its owner namely, Devinder Pal Singh, by registered sale deed dated 24.04.1987. On this basis, the plaintiffs' father became owner. He died on 08.11.1999. After his death, the plaintiffs being legal heirs of the deceased Teja Singh, became owner of the said plot and remained in possession of the said property being legal heirs till 2006. It was further pleaded that appellants-defendants (hereinafter referred to as 'the defendants') illegally occupied the plot/property in question in 2006 being trespassers. Their possession was unauthorized without any right or interest. In 2007, the plaintiffs requested the defendants to vacate the suit land. They promised to do so in the year 2010. They were again approached by the plaintiffs in 2010, that time the defendants promised to vacate the plot in 2013. When the plot was not vacated, the instant suit was filed by the plaintiffs.

4. The defendants contested the suit by pleading that the plaintiffs intentionally had given wrong dimensions and sides of the plot in order to grab the defendants' plot. A false and fabricated site plan was stated to have been produced by the plaintiffs. Defendants claimed themselves to be owner in possession of the plot as mentioned in the site

plan attached with the written statement. As the plot fell within *lal lakeer* of the village, there was no record of ownership in the shape of revenue record. Devinder Pal Singh was never owner of the plot mentioned in the sale deed and as such the sale deed dated 24.04.1987 was illegal and void document. Even the plot mentioned in the sale deed and in the site plan attached with the sale deed, did not tally with the defendants' plot.

5. On these pleadings, the following issues were framed:

1. Whether the plaintiffs are entitled to the possession as prayed for? OPP
2. Whether the plaintiff is entitled to Permanent Injunction as prayed for? OPD
3. Whether the suit of the plaintiffs is not maintainable? OPD
4. Whether the plaintiffs have not come to the court with clean hands? OPD
5. Whether the plaintiffs have no cause of action to file the present suit? OPD
6. Whether the suit of the plaintiff is time barred? OPD
7. Relief.

6. Both the parties led their evidence before the trial Court, upon which the findings were recorded. On issues No.3, 4 and 5, the onus to prove was on the defendants. As no evidence was led by them, the issues were decided in favour of the plaintiffs.

7. While returning the findings on issues No.1 and 2 together, it was held by the Courts below that Baljit Singh-plaintiff, who deposed as PW-1, categorically stated that his father, Teja Singh, purchased a plot by registered deed executed by Devinder Pal Singh, on 24.04.1987, and he was put in possession. He further testified that defendants had taken possession in the year 2006 at the plaintiffs' back. Time and again, they were requested to hand over the possession till March, 2015, but it was

never delivered back. PW-2/Baldev Singh, the attesting witness, proved execution of the sale deed by Devinder Pal Singh in favour of Teja Singh with respect to the suit land. The other witness, Jangir Singh, Lambardar, deposed the fact regarding the defendants having taken possession of the plot in 2006 after the death of Teja Singh, and also that till 2006, the plaintiffs were in possession. PW-5/Darshan Singh, clerk produced the summoned record of sale deed 28.04.1987. It was further held that the property in question, i.e., the vacant plot was situated within *lal lakeer* of the village, therefore, no specific *khasra* numbers were allotted to it. Only the description is given of such property, and inhabitants of the village being in possession, transfer their rights by way of sale deeds, as has been done in the instant case. Possession was delivered by Devinder Pal Singh to Teja Singh, father of the plaintiffs, as the fact stood established by witnesses of the plaintiffs coupled with description of the property in the sale deed (Exhibit P-1) and in the plaint. Reference has also been made to statement of Gurmit Singh (DW-2), who in his cross examination, deposed that at the back side of the suit property, there is a house of plaintiffs' father Teja Singh. With these findings, the plaintiffs' suit was decreed and appeal dismissed.

8. Learned counsel for the appellants by referring to the judgment by Full Bench of this Court passed in ***Parkash Singh and others vs. Joint Development Commissioner, Punjab and others***, 2014 (3) PLR 543, submits that the normal rule of ownership of land within *abadi deh* is, ownership follows possession. In the instant case, it has been admitted by the plaintiffs that they are not in possession, therefore, ownership cannot be claimed by them, and the suit is liable to be dismissed. In this regard,

he has placed reliance upon para No.20 of the judgment, which reads as under:

At this stage, it would be necessary to clarify that, though, agricultural land of a revenue estate, was demarcated into khewats, khataunia and khasra numbers, the land that fell within the “Lal Lakir” and was called “Abadi Deh” (the residential area of a revenue estate) was, a “no mans land”, for a revenue officer. A revenue officer did not venture into the “Abadi Deh” situated within the “Lal Lakir”, or demarcate khewats, khataunis or khasra numbers. A single khewat, khatoni and khasra number was allotted to the “Abadi Deh”. The normal rule of ownership of land within “Abadi Deh” was and is even today that ownership, follows possession. However, paths, ponds, cremation grounds, graveyards, streets, chaupals, etc., used for common purposes by residents whether located within or outside the “Abadi Deh” were assigned separate numbers and as they were used for common purposes and were treated as “shamilat Deh”.

9. Learned counsel has also placed reliance upon another judgment of this Court passed in ***Ranbir Singh vs. Jagpal Singh and others***, CRNo.2578 of 2018, decided on 23.04.2018, to contend that in the absence of any revenue document like *rapat roznamcha* with respect to land situated within *lal lakeer* or *lal dora*, no valid sale of the suit land could be said to have taken place. He has further argued that the suit filed by the plaintiffs was beyond limitation, as they did not assert their possession of the suit land from 2006 till 2015, therefore, the suit is barred by time.

10. The arguments raised by learned counsel for the appellants deserve to be rejected. The law cited by learned counsel is not applicable to the facts of the case either it has duly been established on record that the plaintiffs’ father, Teja Singh, became owner in possession of the suit land by way of a sale deed dated 24.04.1987 executed by Devinder Pal Singh in

his favour. Description of the land has also been duly established on record. The pleaded case of the plaintiffs is that they came in possession of the suit land as legal heirs of their father Teja Singh, after his death on 08.11.1999. It was only in 2006 that possession of the suit land, which is an empty plot, was taken by the defendants at their back. It was only in this background, plaintiffs filed suit for possession of the suit land. Therefore, the normal rule of ownership of land within *abadi deh* of the village or within *lal lakeer* of the village, that ownership follows possession, cannot be invoked to non-suit the plaintiffs. It is a case where plaintiffs through their father were in ownership of the suit land on the basis of sale deed. Their possession continued till 2006, when they were illegally dispossessed in absence. Therefore, they had the possession as well as the ownership. Once, they were illegally ousted from possession of the suit property, they had the right to assert their possession and take it back by filing a suit for possession, and that is what was done by the plaintiffs. There is no illegality or irregularity about the same. The normal rule of ownership of land within *abadi deh* of village, relied upon by the learned counsel, therefore, does not work to the plaintiffs' disadvantage in any manner.

11. The reliance placed by learned counsel on the judgment of this Court passed in ***Ranbir Singh's case (supra)***, is misplaced, as the judgment was rendered to decide validity of an order rejecting interim injunction under Order 39 Rule 1 & 2 CPC, which was being claimed on the basis of two agreements to sell. The declining of interim injunction was upheld by this Court by holding that it was incumbent on the petitioner therein to establish on record certain documents post agreement to sell to show that the plaintiff was in possession, like entry in *rapat*

roznamcha for the purpose of purchase and sale of land situated within *lal lakeer*. It was further held that these factors were in the domain of the trial Court, where during trial, the parties could place the documents on record, in support of the averments. The judgment has no application to the facts of this case, where possession of the plaintiffs stand established on the basis of cogent oral as well as documentary evidence, like the registered sale deed. Mere entry in a *rapat roznamcha* becomes inconsequential in the face of evidence led by the plaintiffs. Besides, observations in the judgment are with reference to an agreement to sell, which is not a document of title.

12. The next contention of learned counsel for the appellants that the suit was time barred, has also been dealt with by the Courts below. Issue No.6 was framed in that regard, and it has been held that it was only on account of assurance given by the defendants to vacate the suit land and hand-over possession to the plaintiffs by March 2015, that the suit could not be earlier filed. Besides, the plaintiffs have sought possession over the suit property being owners on the basis of the sale deed. As per the limitation Act, the limitation for seeking relief of possession on the basis of ownership is 12 years. Therefore, finding on this issue also is without exception, and needs no interference.

13. No other issue has been raised.

14. Dismissed.

15. Pending applications, if any, also stand disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

27.09.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No