

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RSA No.1550 of 2008(O&M)

Date of decision:31.03.2022

Hawa Singh(since deceased) through his LRs

...Appellant

Versus

Inder and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Vivek Khatri, Advocate  
for the appellant.**

**Mr. Ramesh Hooda, Advocate  
for the respondents.**

**ANIL KSHETARPAL, J (Oral)**

The appellant is plaintiff no.1 in a suit for grant of decree of permanent injunction, restraining the defendants from interfering in his possession and for recovery of Rs.9,000/- on account of loss and damages caused by the defendants.

While assailing the concurrent findings of fact arrived at by the courts below, the plaintiff has filed the present appeal.

In substance, the plaintiffs claim that their predecessors-in-interest were proprietors of 'Pana Dhalan' of village Sanghi and they are owners in possession of the land comprised in khasra no.8849 and 8851 being the co-sharers. They further claim that they have constructed a boundary wall and a room for tethering cattle and the defendants have caused loss by demolishing the construction.

The defendants contested the suit and asserted that they are proprietors of the village and the property in question is part of 'Shamlat

Deh". The plaintiffs are in possession of the land which is part and parcel of a village pond and there is neither any boundary wall nor any room.

In the first round, the learned trial court granted limited decree of injunction in favour of the plaintiffs protecting the plaintiffs' possession on the ground that the plaintiffs cannot be dispossessed except in due course of law. However in appeal, the aforesaid judgment was set aside and after remand, the trial court dismissed the suit.

During the pendency of the proceedings, the revenue official was directed to demarcate the disputed land and submit a report. As per the report, the plaintiffs are in possession of land comprised in khasra no.8849 and 8851, however, the aforesaid property is at a distance from the suit property. It was found that there were some remains of foundation of construction in khasra no.8856 and 8778, which is part of the village pond. The plaintiffs filed an objection to the report of Local Commissioner but did not lead any evidence to prove incorrectness. The Court has found that the land comprised in khasra no.8851 is part of the pond, whereas 8760 is a part of 'Gair Mumkin Rasta'.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with the record which was requisitioned.

The learned counsel representing the appellants contends that once the plaintiffs have been found in possession of the property, therefore, they cannot be dispossessed except in due course of law.

Per contra, the learned counsel representing the respondents has submitted that the village pond vests with the Gram Panchayat and since the panchayat has not been impleaded as party, therefore, the plaintiffs being

encroacher of a public land cannot be granted any protection.

This court has considered the submissions while elaborating the evidence.

As regards the land comprised in Khasra no.8849 and 8851, the First Appellate Court has recorded findings in favour of the plaintiffs. As per the report submitted by the Local Commissioner, the plaintiff wants to protect his possession over the land which is at a distance from the land comprised in khasra no.8849 and 8851. The property where certain remains of the foundation of some construction were found is not part of the land comprised in khasra no.8849 and 8851. In fact, there is a positive report that it is not only part of pond but also 'Gair Mumkin Rasta'.

In such circumstances, no ground to grant injunction in favour of the appellants, is made out.

Dismissed.

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

**March 31, 2022**  
**nt**

**(ANIL KSHETARPAL)**  
**JUDGE**

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

**Whether reportable : Yes/No**