

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4739-2019 (O&M)
Date of Decision:11.10.2022

SURJEET SINGH AND ANR.

.. Appellants

Vs.

MUKESH TANEJA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ram Kumar Saini, Advocate for the appellants.

...

Manoj Bajaj, J. (Oral)

The appellants (plaintiffs) have filed this regular second appeal to challenge the judgment and decree dated 24.04.2019 passed by the first appellate Court in Civil Appeal No.76 of 2015, whereby the judgment and decree dated 29.07.2015 passed by Civil Judge (Jr. Divn.), Hisar in Civil Suit No.117-C dated 08.03.2013 dismissing their suit for possession and injunction, was upheld.

Briefly, the facts of the case are that the plaintiffs, namely, Surjeet Singh and Roshan Lal, brought a suit for possession and injunction in respect of property bearing old khasra No.8590/7411/2 and new khasra No.8390 total measuring 428.34 sq. yards, situated at Tibba Danasher, Hisar on the ground that the said property was given on lease by Haryana Wakf Board, Hisar (defendant No.5) to them for a period of three years through lease order dated 16.10.2012 (Ex. P-7). As per pleadings, the property at the time of execution of the lease order, was in possession of defendant Nos.1 to 4 and as the plaintiffs had deposited the requisite amount in terms of the lease order, they were entitled to seek possession of

the property, but defendant Nos.1 to 4 refused to hand over the possession to them. Broadly, on this cause of action, the plaintiffs sought for decree for possession and also prayed for injunction restraining the defendants from interfering in their possession.

Upon notice, defendants No.1 to 4 filed their joint written statement, and raised preliminary objections relating to locus standi, maintainability, cause of action, non-joinder of necessary parties. On merits, it was pleaded that the suit property is in their possession since March, 1977, whereupon they had constructed a house and residing there for a long time. Defendant No.5 has pleaded in its written statement that the suit property is a wakf property and has been allotted to the plaintiffs vide lease order dated 16.10.2012 for a period of three years w.e.f. 01.09.2015, whereas defendant No.6 has pleaded in its written statement that Haryana Wakf Board is the owner of the suit property. One commercial building plan No.339/2009-10 was applied by Krishan Kumar, however, the same was rejected and an intimation was sent vide letter No.551/B1 dated 04.03.2010 to Krishan Kumar. All other averments in the plaint were denied and in the end, it was prayed that the suit be dismissed.

Upon completion of pleadings, the trial Court in all framed eight issues and thereafter, the parties adduced their respective evidence. Upon considering the evidence on record, the trial Court vide its judgment and decree dated 29.07.2015 dismissed the suit.

Feeling aggrieved against the judgment and decree dated 29.07.2015, the plaintiffs preferred a Civil Appeal No.76 of 2015 before the Addl. District Judge, Hisar and the same was also dismissed.

Learned counsel has argued that the case of the plaintiffs is

supported by the defendants No.5 and 6 as well and the property in question is owned by defendant No.5, which was leased out to the plaintiffs on 16.10.2012, therefore, a legitimate right accrued in favour of the plaintiffs to get possession of the suit property. He submits that defendants No.1 to 4 have no right to continue in possession of the property, but the trial Court as well as the Appellate Court have not properly appreciated the evidence on record while dismissing the suit as well as their appeal. He submits that pursuant to the lease order (Ex.P-7), the requisite amount of Rs.13,200/- as rent and Rs.58,000/- as donation, security fee etc. stood deposited by the plaintiffs, therefore, their suit deserves to be decreed. He prays that the impugned judgment and decree be set aside.

During the course of hearing, it is not disputed by learned counsel that at the time of issuing the lease order (Ex. P-7), neither the possession of the suit property was delivered to the plaintiffs nor anything was mentioned regarding possession or delivery to the plaintiffs. Apart from it, it is also fairly conceded that the lease period was only for a period of 3 years and the same came to an end in October, 2015.

Upon considering the submissions of the learned counsel and the evidence on record, this Court finds that the suit of the plaintiffs rests upon lease order dated 16.10.2012 (Ex. P-7) and as per Clause 10 of this instrument, formally a lease deed was to be executed within a period of fifteen days. Since no such lease deed was executed in terms of these conditions, the said lease order stood cancelled. Besides, the lease order dated 16.10.2012 only shows intention on the part of the defendant No.5 to lease the property in question to the plaintiffs and admittedly, neither any formal lease deed was executed nor possession was ever delivered to the

plaintiffs, therefore, the Courts have rightly declined the claim of the plaintiffs by holding that in terms of Clause10 of Ex. P-7, the lease order stands cancelled.

A perusal of the impugned judgments and decrees passed by both the Courts shows that findings on material issues have been returned on the basis of proper appreciation of evidence on record and the same do not suffer from any perversity.

Resultantly, this Court does not find any merit in this appeal, muchless involvement of any question of law.

Dismissed.

11.10.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No