

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

108

RSA No. 2488 of 2019 (O & M)

Date of decision : 30.9.2022

Gurcharan Singh**.....Appellant****Vs.****Darshan Singh and another****.....Respondents****CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Arun Jindal, Advocate, for the appellant

Mr. Mohd. Yousaf, Advocate, for the caveators/respondents

TRIBHUVAN DAHIYA, J. (Oral)

1. This is defendant's second appeal in a suit for possession filed by the respondents/plaintiffs (hereinafter referred to as 'the plaintiffs') for land measuring 13 *bighas* 16 *biswas* bearing *Khata* no. 192/163/1/266 *Khasra* no. 3650/945/1-10, 3982/930/1-2, 3984/930/4-12, 3986/931/5-13-10, 3987/932/0-18, situated in revenue estate of village Bhudan, Tehsil Malerkotla, District Sangrur, as per the *jamabandi* for the year 2011-12. It was pleaded that in July 2014, the defendant threatened the plaintiffs' possession over the suit land and dispossessed them with the help of local police authorities. Thereupon, they filed a suit for permanent prohibitory injunction against the defendant, which was registered as Suit No. 499 dated 16.7.2014, and the defendant was restrained from dispossessing the plaintiffs from the suit land. Plaintiff no.1 moved an application to the SSP, Sangrur, also but no action was taken. The defendant along with an unidentified persons came to the suit land on 18.8.2014

and took forcible possession from the plaintiffs, who, being aged persons, could not resist the defendant.

2. The suit was contested by the defendant by pleading that parties to the suit and Amar Singh, who is brother of defendant and real son of the plaintiffs, jointly own and possess approximately 232 *bighas* of land, which includes the land measuring 57 *bighas*, owned and possessed by the defendant. About two years back, a dispute arose between the parties to the suit, which was settled in May 2013 by way of an oral family settlement. It included the suit property and other land owned and possessed by the plaintiffs and Amar Singh, and also the land exclusively owned and possessed by the defendant in his own name. Since the settlement was oral, no revenue entries were recorded. And the plaintiffs are taking undue advantage of wrong entries of revenue record existing in their names.

3. The parties led their evidence before the trial Court. Plaintiffs examined Harpreet Sharma as PW-1, who produced on record sale deeds bearing Nos. 1092 and 1093 dated 26.6.2006 in the plaintiffs' name. The defendant examined himself as DW-1, and Balwinder Singh as DW-2.

3. On appraisal of documentary as well as oral evidence on record, the Courts below have held that relationship between the parties to the suit is admitted, as well as identity of the property. Previous ownership of the plaintiffs over the suit property is also not disputed. The defendant's possession over the suit property is an admitted fact. In order to prove forcible dispossession the plaintiffs they have placed on record application submitted to the SSP, Sangrur, dated 18.7.2014 (Ex.P-1), to the effect that they were

dispossessed from the suit property by the defendant. The revenue record, i.e., *jamabandi* for the year 2011-12, Ex.P-3, duly records plaintiffs' name in the column of 'ownership'. There is no evidence on record to dispute this evidence. It has also been recorded that a perusal of the *jamabandi*, Ex.P-3, reveals that the plaintiffs had obtained a loan for an amount of Rs. One crore against the property from a bank on 12.2.2014. It has further been held by the Courts below that except bald pleading in the written statement, no evidence with regard to oral family settlement has been brought on record by the defendant; rather, DW-1, in his cross-examination, has stated that the family settlement/partition is not got incorporated in the revenue record and the suit property is in the name of his father and mother, who are the plaintiffs in the present case.

4. Learned counsel for the appellant has argued that judgments of both the Courts below are liable to be set aside as there is no evidence on record as to when the plaintiffs were dispossessed from the suit property. By placing reliance upon the report submitted by the police, it has been claimed that dispossession has not been established. It has further been argued by learned counsel for the appellant that there is no evidence on record to show that the suit land was separate from rest of the land of the parties.

5. The arguments raised by learned counsel for the appellant have no merit. It has duly been established on record that the suit property was plaintiffs' self-acquired property, and evidence to that effect is on record in the form of sale deeds dated 26.6.2006, duly proved on record by PW-1. Besides, the revenue entries in the *jamabandi* for the year 2011-12, Ex.P-3, also establish exclusive ownership and possession of the plaintiffs over the suit

property, and also that the suit land was separate and distinct from rest of the land owned by the family. It is also not disputed that a complaint to the SSP, Sangrur, dated 18.7.2014, Ex.P-1, was submitted by the plaintiffs regarding their forcible dispossession. Reliance placed by learned counsel for the appellant on the police report, stated to be in favour of the defendant, is of no consequence as the plaintiffs have pleaded that no action was taken on their complaint, which forced them to file a petition in this Court under Section 482 Cr.P.C., bearing CRM No. 25212 of 2014, seeking directions against the concerned police officials and the defendant. Besides, in a situation when plaintiffs' forcible dispossession from their land has been proved, specific date of such dispossession, even if not established, is of no consequence.

6. In view of the aforesaid, there is no ground to interfere with the well reasoned judgments of the trial Court as well as the lower Appellate Court. No substantial question of law arises for consideration.

7. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

30.9.2022

Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No