

RSA-694 of 2019

2023:PHHC:121461

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

RSA-694 of 2019

Date of decision: 13.09.2023

Onkar Singh and others

.....Appellants

Versus

Bahadur Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Munish Gupta, Advocate,
for the appellants.

NAMIT KUMAR, J.

1. This Regular Second Appeal is directed against the judgment and decree dated 25.10.2016 passed by the Court of learned Civil Judge (Junior Division), Phillaur, whereby suit of the appellant-plaintiffs under Order 1 Rule 8 CPC in the representative capacity for possession/mandatory injunction directing the respondent-defendants to deliver vacant possession of old *Dharamshala* of Ramgarhia community shown in red colour in the site plan and for permanent injunction restraining the respondent-defendants from damaging, demolishing or changing the nature of the property in dispute illegally forcibly or through any other manner, was dismissed as well as against the judgment and decree dated 12.10.2017 passed by the Court of learned Additional District Judge, Jalandhar, whereby appeal of the

appellant-plaintiffs against the judgment and decree dated 25.10.2016, has been dismissed.

2. For convenience sake, reference to parties is being made as per their status in the civil suit. Briefly stated, plaintiffs filed a suit for possession/mandatory injunction and permanent injunction pleading therein that property in dispute is an old Dharamshala and belongs to Ramgarhia Community. It has further been pleaded that the old Dharamshala was constructed by the forefathers of the plaintiffs and other residents of the village since times immemorial. It has further been pleaded that since long, the plaintiffs are seeing the property in dispute being used by the Ramgarhia Community as Dharamshala, which is being used by the members of the Ramgarhia Community for common purposes i.e. for giving training to the girls for stitching etc. It has further been pleaded that the residents of the village used the property in dispute in happy and sorrow occasions and holding other common programs etc. It has further been pleaded that the property in question was commonly managed by the residents of the village and Ramgarhia community and there was no committee formed by the residents of the village for managing the property in dispute. It has further been pleaded that in the month of July, 2012, the defendants have taken illegal possession of the property in dispute and the plaintiffs objected to the same right from the beginning. It has further been pleaded that the defendants are proclaiming that the property in dispute was given to them by Gurudawa Patti Ramgarhia village Kang Arian, Tehsil Phillaur, in a public auction, whereas no public auction

was held in the village. It has further been pleaded that the property in dispute does not belong to Gurudwara Patti Ramgarhia and Gurudawara Patti Ramgarhia has no right or authority to alienate/transfer the property in dispute in any public auction. It has further been pleaded that the property in dispute is being managed by the plaintiffs and other residents of villages jointly which is being used as Dharamshala by the Ramgarhia Community for their common purposes and no body has any right to alienate/transfer the common property to all the community members to any individual person. It has further been pleaded that the plaintiffs raised objection against the defendants regarding their illegal possession on the property in dispute and they have also moved an application against the defendants to the SDM, Phillaur, but no action was taken against the defendants. It has further been pleaded that the plaintiffs being resident of the said village and belonging to the Ramgarhia Community, has right, title and interest in the property in dispute and further the same was built by the forefathers of the plaintiffs and other residents of the village.

3. Upon notice, defendants 1 and 2 had filed written statement, wherein it has been pleaded that the suit property was the ownership of Gurudwara Patti Ramgarhia, village Kang Arayan, Tehsil Phillaur and they have constructed a room in the suit property and the said Gurudwara Patti Ramgarhia and village auctioned the suit property, in which all the plaintiffs and the Davinder Singh were present on 29.01.2012 and the property in question was purchased by Bahadur Singh for a valuable sale consideration of Rs.1,25,000/- and

the Gurudwara Patti Ramgarhia handed over the possession of the property in question to Bahadur Singh and now Bahadur Singh is in lawful possession of the suit property and Bahadur Singh had made construction in the suit property. It has further been pleaded that the plaintiffs have no right, title or interest in the property in question. It has further been pleaded that the plaintiffs are not the members of the Ramgarhia community. A prayer for dismissal of the suit was made.

4. From the respective pleadings of parties, Ld. Trial Court has framed the following issues :

1. Whether the plaintiffs are entitled to permanent injunction as prayed for? OPP
2. Whether the suit is not maintainable? OPD
3. Relief.

5. Parties led oral as well as documentary evidence in support of their respective contentions.

6. After hearing arguments and after appreciating evidence on record, trial Court dismissed the suit of the plaintiffs vide judgment and decree dated 25.10.2016.

7. Aggrieved against the judgment and decree of the trial Court, plaintiffs preferred an appeal before the lower appellate Court, which has been dismissed vide judgment and decree dated 12.10.2017.

8. Perusal of the record shows that there is no cogent evidence to show that earlier the suit property was being used by Ramgarhia community as Dharamshala and appellant-plaintiffs were in possession of the suit property. During his cross-examination PW-1 Baldev Singh has admitted that the suit property is in possession of the

respondent-defendant and plaintiffs have no evidence in writing or in the shape of document with respect to ownership of the suit property.

From the evidence led by the appellant-plaintiffs it is clear that they have failed to prove that they were in possession over the suit property.

9. Concurrent findings have been recorded by both the Courts below and learned counsel for the appellants has failed to show that the same are perverse or illegal or based on misreading, non-reading or mis-appreciation of the material evidence on record.

10. No question of law, muchless substantial question of law has been raised or arises for consideration in the present appeal. No other point has been urged.

11. In view of the above, present appeal is dismissed.

12. Pending application(s), if any, stand disposed of accordingly.

13.09.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No