

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

RSA-1240-2020 (O&M)
Date of Decision: 20.11.2023

Gram Panchayat, Village Bhuslana

...Appellant

Versus

Bhim Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vishwajeet, Advocate for the appellant.

HARKESH MANUJA, J. (oral)

1. By way of present appeal, challenge has been made to the judgment and decree dated 04.11.2019 passed by the First Appellate Court, whereby the suit for possession filed at the instance of respondent No.1-plaintiff/Bhim Singh, has been partly decreed.
2. Briefly stating, claiming himself to be owner of 1 *kanal* 15 *marla* of land, comprised in Khewat No.86, Khatoni No.114, Khasra No.44 and Killa No.23, situated within the revenue estate of Village Bhuslana, Tehsil Safidon, District Jind (Haryana), respondent No.1-plaintiff filed a suit for mandatory injunction directing the defendant-appellants as well as the perform respondents to hand over its vacant possession in his favour. In the suit, reliance was placed upon demarcation report dated 18.05.2012 carried out by *Halqua Kanungo*,

namely, Hukam Chand, on an application moved by respondent No.1-plaintiff wherein suit land was found to be in possession of respondent No.3-defendant No.2. Respondent No.1-plaintiff claimed his ownership qua the suit property, on the basis of *Jamabandi* for the year 2011-12 (Ex. P-5) being recorded as one of the co-sharer therein.

3. Upon notice, respondent Nos.2 and 3 filed their separate written statements, wherein it was pleaded that the Gram Panchayat by virtue of a resolution dated 26.08.1991 handed over the possession of suit property to the office of Director Animal Husbandry for the benefit of the entire village for setting up of a Veterinary Hospital.

4. The trial Court vide judgment and decree dated 15.04.2015, dismissed the suit filed at the instance of respondent No.1-plaintiff, while holding it to be barred by limitation, though he was held to be co-sharer in the property in dispute. Aggrieved thereof, the respondent No.1-plaintiff, filed first appeal, which came to be decreed vide judgment dated 04.11.2019 passed by the First Appellate Court.

5. Impugning the aforementioned judgment and decree dated 04.11.2019 passed by the First Appellate Court, learned counsel representing the appellant submits that the suit filed at the instance of respondent No.1-plaintiff was barred by limitation. He further submits that the Veterinary Hospital was constructed in the year 1993 and since then, its existence was in the knowledge of respondent No.1-plaintiff,

who failed to assail his claim over the suit property for so long. No other argument was raised on behalf of the appellant.

6. I have heard the learned counsel for the parties and gone through the paper-book. I am unable to find substance in the submissions made on behalf of the appellant-defendant No.3.

7. In the present case, concurrent finding of the fact was recorded in favour of respondent No.1-plaintiff that he happens to be one of the co-sharer in the suit property, based on Jamabandi for the year 2011-12 (Ex. P-5). Moreover, as per the demarcation report (Ex.P1), which was proved on record by *Halqua Kanungo*, namely, Hukam Chand (PW-1), the suit property, jointly owned by respondent No.1-plaintiff was encroached upon by respondent No.3 while raising construction of Veterinary Hospital. On the other hand, appellant-defendant No.3 failed to establish on record its ownership over the suit property before passing the resolution dated 26.08.1991, nor even any such evidence was brought before the Courts in these proceedings. Furthermore, it was rightly found by the First Appellate Court that the appellant besides respondent Nos.2 and 3 being State functionary could not be permitted to raise plea of adverse possession against an ordinary citizen and that too by depriving him of his ownership rights. In this regard, reliance can be placed on a decision of Hon'ble Supreme Court passed in case of 'State of Haryana Vs. Mukesh Kumar and Ors.', 2012(1) RCR 17 (Civil).

8. In view of the discussion made hereinabove, finding no illegality or perversity with the findings of facts recorded by the First Appellate Court, there being no overlooking of the material available on record, re-appreciation of pleadings and the evidence being impermissible, the present appeal being devoid of merits is thus dismissed.

9. Pending application(s), if any, shall stand(s) disposed of.

20.11.2023

Mangal Singh

(HARKESH MANUJA)
JUDGE

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