

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

RSA-1243-1992

Date of Decision: January 13, 2023

PRITAM SINGH AND OTHERS

..... Appellants

VERSUS

KAKA SINGH

..... Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: None for the appellants.

Mr. Shiv Kumar, Advocate for the respondent.

LISA GILL, J.

This appeal has been filed by the appellants – plaintiffs challenging judgment and decree dated 25.05.1992 passed by the learned Additional District Judge, Ropar whereby appeal filed by the defendant/present respondent – Kaka Singh (now represented by his legal representatives) was allowed.

Plaintiffs had filed a suit for permanent injunction for restraining defendant – Kaka Singh from interfering in their possession and construction over the plot in dispute as described therein. It was pleaded by the plaintiffs that the plot was owned by one Rikhi Singh and they had purchased the said plot from him vide sale deed dated 04.07.1986 for a sum of Rs.10,000/-. Rikhi Singh was claimed to be in possession of the plot since

time immemorial and the plaintiffs claimed to be its owner in possession having purchased from him. Defendant, it was pleaded, had no right or connection with the plot in dispute but when he threatened to interfere in the possession of the plaintiffs.

Defendant resisted the suit while claiming the property in dispute to be owned previously by one Arjan Singh son of Telu, father-in-law of the defendant. Arjan Singh was pleaded to have purchased the plot from one Wariam Singh vide sale deed in the year 1935. It is stated that property in question was bequeathed in favour of Hardas Kaur wife of the defendant but Hardas Kaur also died. She had executed a Will in favour of the defendant, thereby bequeathing the property to him. Defendant claimed to be the owner in possession of the property in dispute by virtue of the Will. It was denied that the property was ever owned or possessed by Rikhi Singh.

Learned trial Court decreed the suit filed by the plaintiffs vide judgment and decree dated 08.08.1989, restraining the defendant, from interfering with the possession of the plaintiffs except in due course of law. Appeal filed by the defendant was, however, allowed by learned Additional District Judge, Ropar vide judgment and decree dated 25.05.1992 while concluding that appellants – plaintiffs were not proved to be the owner/s in possession of the property in question. The suit property, it was held, had not been separately described and that injunctive relief could not be granted to the plaintiff as they are not in possession of the property and had not been proved title to the same. Aggrieved therefore, present appeal has been filed in June, 1992.

Notice was issued on 09.06.1992 in this appeal and status quo regarding possession was directed to be maintained. It is duly noted in order dated 31.07.1992 that both the parties were claiming possession of the disputed plot. Therefore, it was directed that status quo regarding possession be maintained.

None had appeared on behalf of the appellants. As learned counsel representing the appellants had passed away, notice was issued to the appellants as reflected in order dated 18.11.2022 passed in this appeal. As per office report, notice issued to the appellants has been received back unserved with the report that they are not residing at the given address.

In view of the report as above and the fact that none has come forward to pursue the matter, this Court is left with no other option but to dismiss this appeal in default.

By way of abundant caution, copy of this order be conveyed at the given address of the appellants. Needless to say, liberty is afforded to the appellants to move an appropriate application in accordance with law within six weeks.

January 13, 2023
rts

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No