

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

RSA-1670-1992 (O&M)

Date of Decision: 10.8.2023

Kaur Sain and others

....Appellants

VERSUS

Surjit Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. V.K.Kataria, Advocate,
for the appellant.

KARAMJIT SINGH, J.

This regular second appeal has been filed against the judgment and decree dated 27.2.1992 passed by the Court of learned District Judge, Faridkot whereby the appeal filed by the defendants/respondents-Surjit Singh and others was allowed and the judgment/decreed dated 15.10.1991 passed by the Court of Sub Judge, First Class, Faridkot was set aside and the suit of the plaintiff-appellant was dismissed with regard to property bearing Khasra NO.1878/1 (8-0), 1954 (1 min) (0-9).

2. Brief facts of the case are that the appellant instituted suit for permanent injunction restraining the respondent from dispossessing the appellant from the land measuring 44K- comprised in Khasra No.1954/1(0-9), 1878/1(8-0), 1883/2(14-15), 1884/2/2(0-12), 1877/2/2/0-4, 1883/1/1-5, 1876/12-9, 1877/1/3-11 and 1884/2/2/2-15 situated in village Bargart, Tehsil and District Faridkot on the ground that the appellants are owners in possession of the said land and the respondents have got no right, title or interest in the same but the respondents threatened to disposes the

appellants from the suit land.

3. The suit was contested by the respondents who took preliminary objections that the suit is bad for non-joinder of necessary parties and that the suit is not maintainable against a co-sharer. On merits, the respondents pleaded that Surjit Singh and others have purchased 33K-14M of land out of total land measuring 67K-9M from Joginder Mal @ Joginder Pal and they also purchased another piece of land measuring 33K-15M vide sale deed dated 15.6.1976 from the same vendor and thus, the respondents are co-sharer in the suit land and are in possession of khasra numbers 1878/1 and 1954/1. So, prayer is made that the suit be dismissed. The respondents also filed counter claim.

4. The appellants filed replication controverting the averments made in the plaint and denied possession of the respondents over the land having khasra numbers 1878/1 and 1954/1.

5. On the pleadings of the parties, the following issues were framed : -

1. Whether the suit is bad for non-joinder of necessary parties?

OPD

2. Whether the suit is not maintainable against the defendants as they are also co sharers int eh suit land? OPD

3. Whether the plaintiffs are owners in possession of the suit land? OPP

4. Relief.

6. In order to prove their case, the appellants produced jamabandi for the year 1983-84 Ex.P1 and copy of khasra girdawari for the years 1984-85 to 1987-88. On the other hand, the respondents produced jamabandi for

the year 1988-89 Ex.D7, Nehri Girdawari Ex.D8 and copy of khasra Girdawari Ex.D9. The respondents also produced sale deed Ex.D1 and EX.D2 regarding purchase of land by them and copy of order of Collector Ex.D5 and copy of mortgage deed Ex.DW6/A.

7. After hearing counsel for the parties, the learned trial Court decreed the suit of the appellants for permanent injunction restraining the respondents from interfering into their possession over the entire suit land except Khasra No.1954/1 and 1878/1 and decreed the suit for possession of khasra numbers 1954/1 and 1878/1.

8. Being aggrieved, the respondents filed appeal against the judgment and decree dated 15.10.1991 passed by the learned trial Court. The appeal was allowed and the plaintiff's suit was dismissed as regards Khasra No.1878/1 (8-0) and 1954(1 min) (0-9). The appellants being aggrieved by the aforesaid judgment and decree passed by the Court of learned District Judge, Faridkot have filed the present appeal.

9. I have heard counsel for the appellant and gone through the record provided by the counsel for the appellant.

10. Counsel for the appellant, while challenging the impugned judgment, has *inter alia* contended that the entire land was joint but the appellants were in exclusive possession of the suit land including khasra No.1878/1 (8-0) and 1954/1 (1 min) (0-9) and thus, the respondents were having no right to interfere into peaceful possession of the appellants over the entire suit property. So, prayer is made that the impugned judgment be set aside and the judgment passed by the learned trial Court be restored.

11. I have considered the submissions made by the counsel for the appellant.

12. During the arguments, counsel for the appellant has not disputed the fact that initially, the land was joint but later on, it was partitioned and in the said partition, khasra No.1878/1 (8-0) and 1954/1(0-9) came to the share of the respondents and possession of the same was also delivered to the respondents and even mutation on the basis of the partition was also sanctioned by the revenue authorities, thus, making it clear that on partition of joint land, the respondents became exclusive owner in possession of the land bearing khasra No.1878/1 (8-0) and 1954/1(0-9). So, it is evident that after partition of the land was effected, the appellants were having no right, title or interest in the land having khasra No.1878/1(8-0) and 1954/1(0-9). So, the Court of learned District Judge, Faridkot rightly declined to grant any relief to the appellants with regard to land bearing khasra No.1878/1 (8-0) and 1954/1 (0-9).

13. Counsel for the appellants has failed to prove any illegality or perversity in the impugned judgment passed by the learned District Judge, Faridkot. As such, no question of law muchless substantial question of law is involved in the present appeal warranting interference by this Court.

14. The appeal is hereby dismissed.

(KARAMJIT SINGH)
JUDGE

August 10, 2023

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No