In the High Court of Punjab and Haryana, at Chandigarh

1. Regular Second Appeal No. 1104 of 2021 (O&M)

Gurbachan Singh

... Appellant(s)

Versus

Tara Singh

... Respondent(s)

AND

2. Regular Second Appeal No. 1108 of 2021 (O&M)

Joginder Singh

... Appellant(s)

Versus

Tara Singh

... Respondent(s)

DATE OF DECISION: 20.12.2023

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ripudaman Singh Brar, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in ***Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157***.

2. Two connected appeals filed by the appellants have come up for hearing. The learned counsel representing the appellants in both the

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appeals admit that the issue, which requires consideration, is identical, therefore, these appeals can conveniently be disposed of by a common order.

3. Two different suits were filed by the plaintiff, namely Tara Singh claiming possession of the land measuring 4 kanals and 8 kanals, respectively. It is the case of the plaintiff that the defendants are cultivating the land without any right, title or interest and in fact, they are the unauthorized occupants. The defendants, while contesting the suits, the defendants claimed that in the revenue record, their possession is recorded as *gair marusi*. Both the Courts below have come up to a conclusion that the defendants (appellants in both the appeals) have failed to prove the relationship of the landlord and tenant between the parties. It has also come on record that originally, the land was owned by the provincial government which was, later on, transferred in favour of the plaintiff.

4. Heard the learned counsel representing the appellants at length and with his able assistance, perused the paper-book.

5. The learned counsel representing the appellants contends that the civil suit for the grant of decree of possession is not maintainable because the plaintiff is not the sole owner of the land in dispute.

6. This Court has considered the submissions of the learned counsel representing the appellants. Admittedly, the appellants are not the co-sharer. In these circumstances, one co-sharer can maintain a suit for possession against a trespasser. The learned counsel representing the appellants did not press any other point.

7. Keeping in view the aforesaid facts, no ground is made out to

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interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, both the appeals are dismissed.

8. The miscellaneous application(s) pending, if any, in both the appeals shall stand disposed of.

(Anil Kshetarpal)
Judge

December 20, 2023
"DK"

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

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