

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.279 of 2005 (O&M)
Date of Decision :05.01.2023

Shabeg Singh and another

.....Appellants

Versus

Bajjit Kaur and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present : Mr. L.S.Sidhu, Advocate for the appellants.

Mr. Ashish Verma, Advocate for the respondents.

ARUN PALLI, J. (Oral):

Suit filed by the plaintiff-Baljit Kaur was decreed by the Trial Court, vide judgment and decree dated 18.03.1978. And, as the appeal preferred against the said decree failed and was dismissed on 18.10.2004, LR's of defendant No.2 (Amar Singh) are before this Court in Regular Second Appeal.

Parties to the *lis* hereinafter shall be referred to by their original position in the suit.

Plaintiff Baljit Kaur filed a suit for injunction to restrain the defendants from causing any interference in her peaceful possession over suit property, measuring 63 kanals 7 marlas, comprised in specific khasra numbers, situated in Village Manjali, Tehsil Zira. In brief, the case set out by her was that suit land was allotted by the Central Government to defendant-Amar Singh. And, pursuant to an agreement to sell executed by Amar Singh in favour of the plaintiff, she was put in possession of the suit

property. But the defendants, thereafter, tried to forcibly dispossess the plaintiff from the suit land, thus, the suit.

In the written statement filed by the defendants, they controverted the claim of the plaintiff and alleged that they had purchased the suit land from the Central Government on installments, though they were yet to acquire the ownership/title thereto. However, they were in possession and had even built their houses upon the suit land and were residing therein with their families. It was denied if Amar Singh had executed any such agreement to sell in favour of the plaintiff. And even otherwise, he was not competent to alienate the suit land.

On consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that plaintiff-Baljit Kaur (PW1) appeared as her own witness and testified in her deposition that she was in possession of the suit land which was being cultivated by Hakam Singh on her behalf. Said Hakam Singh (PW2), was also examined and he proved the version of the plaintiff. Jamabandi for the year 1973-74 (Ex.P2) as also the copy of khasra girdawari from Sawni 1976 to Harri 1976 (Ex.P3), proved that the plaintiff was in actual/physical and cultivating possession of the suit land through Hakam Singh. Similarly, even document (Ex.D5) produced by the defendants showed plaintiff to be in possession of the suit property. The revenue entries revealed that possession of the plaintiff over the suit land was recorded during *rabi* 1975-76 and her status was entered in the record of rights as '**Ba Tassavar Bai**' cultivating through Hakam Singh. Significantly, the plaintiff also proved on record the certified copy of the plaint (Ex.P1), which showed that defendant Amar Singh had filed a suit for

possession against plaintiff-Baljit Kaur and Hakam Singh qua the suit property, wherein, he had conceded plaintiff to be in possession. Thus, there was a clear and unambiguous admission as regards possession of the plaintiff. Hence, the entries recorded in the jamabandi(s) for the year 1969-70 (Ex.D2) and for the year 1972-73 (Ex.D3) as also khasra girdawari (Ex.D4) in favour of defendant Amar Singh were hardly of any consequence. As regards the argument that as the plaintiff herself admitted defendant Amar Singh to be the owner of the suit land, and so was the position recorded even in the revenue record, therefore, the possession of the plaintiff, at best, could be of a trespasser: suffice it to say that concededly the sale certificate (Ex.D1), issued by the Tehsildar (Sales) in favour of Amar Singh, qua the suit land, was cancelled by the Chief Sales Commissioner, Rehabilitation Department, Punjab, vide order dated 19.09.1977. Thus, even if, he had any right, title or interest in the suit land, it paled into insignificance. The argument advanced by learned counsel for the appellants that as the plaintiff failed to prove the alleged agreement to sell, pursuant whereunto, she was put in possession of the suit land, she was not entitled to the injunction prayed for: even if that was so, but she proved herself to be in actual/physical and cultivating possession of the suit property. And, even if, her possession was unauthorized or unlawful, she could be evicted/dispossessed only in due course of law. Once the allotment in favour of the defendants was cancelled, in comparison to the plaintiff, they did not possess a better title. Further, the plaintiff could always seek injunction to protect her possession against the whole world, except the true owner. Needless to assert that plaintiff had filed a suit for injunction

simpliciter and all that was required to be determined by the Courts below was if she was in actual physical possession of the suit property. And, once she proved her possession over the suit land, the only and the inevitable conclusion that could be reached was: plaintiff was entitled to the injunction prayed for.

Upon being pointedly asked, learned counsel for the appellants failed to point out if the conclusion concurrently arrived at by both the Courts below was either perverse or contrary to the record.

In the wake of the above, no ground is made out to interfere with the impugned judgment and decree. The appeal being bereft of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

05.01.2023
Manoj Bhutani

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