

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(272)

CM-5-C-2022 & CM-7-C-2022 in/and
RSA-2-2022

Date of Decision : January 17, 2023

Veena Kumari

.. Appellant

Versus

Rajesh Kumar and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vipin Mahajan, Advocate, for the appellant.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-5-C-2022

As prayed for, the application is allowed.

Delay of 27 days in filing the appeal is condoned.

RSA-2-2022

In the present Regular Second Appeal, the challenge is to the judgment of the trial Court dated 02.08.2016 by which, the suit filed by the respondent-plaintiff was decreed thereby restraining the appellant-defendant from interfering with the possession of the respondent-plaintiff over the land in question without due process of law. Thereafter, the appeal filed by the appellant herein was also dismissed by the lower Appellate Court vide order dated 26.06.2020 as the appellant failed to prove as to how the findings of the trial Court were erroneous. In the present Regular Second

Appeal, the judgment of the trial Court dated 02.08.2016 as well as that of lower Appellate Court dated 26.06.2020 have been impugned.

Learned counsel for the appellant argues that the appellant is a lawful owner of the land in question and therefore, passing of an injunction against the owner is bad in law as only an entry in the revenue record will not give the right to the respondent-plaintiff to claim possession of the property in question so as to record the finding that the respondent-plaintiff is in possession of the land in question and to pass an order of injunction.

It was conceded before this Court that father of the respondent-plaintiff was in possession of the land in question much prior to the date when the same was purchased by the appellant herein. Learned counsel has conceded that nothing has come on record that plaintiff's father or thereafter plaintiff were ever dispossessed from the property in question. Learned counsel for the appellant has not been able to show that any evidence has come on record that the appellant ever got the possession of the property in question.

The trial Court, on the basis of the evidence which had led including the revenue record, came to the conclusion that the respondent-plaintiff was in possession of the land in question. It was under these circumstances that the suit was allowed restraining the appellant-defendant from interfering into the possession of the respondent-plaintiff. Nothing has been brought to the notice of this Court that as to why, the revenue record which exist in the favour of the respondent-plaintiff, should be ignored, even if, there is one single entry in the revenue record showing the possession of the father of the plaintiff, who had died in the year 2005, will

not oust the plaintiff to be in possession as he has stepped into the shoes of his father.

On being asked as to what record has been produced by the appellant-defendant to show that the plaintiff was dispossessed from the land in question at any given point of time either before the property was purchased by the appellant-defendant or thereafter.

Learned counsel for the appellant very fairly conceded that no such evidence has come on record with regard to the dispossession of the plaintiff from the land in question.

Keeping in view the above, as the facts have been recorded by the Court below on the basis of the evidence and no perversity in the same has been brought to the notice of this Court, no ground is made out for interference by this Court.

Dismissed.

CM-7-C-2022

As the main appeal has been dismissed, present application also stands dismissed.

January 17, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No