

RSA-112-2012 (O&M)

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

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**RSA-112-2012 (O&M)
Decided on : 10.08.2023**

Goda Ram and others

... Appellant(s)

Versus

Ashok Kumar and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. J.P. Sharma, Advocate
for the appellant(s).

Mr. Anoop Kumar Yadav, Advocate
for the respondent(s).

SANJAY VASHISTH, J. (Oral)

CM-6219-C-2022

i. Written statement/reply has been filed by respondent No.1 to 10 to the application, moved by the appellants for allowing the appeal (RSA-112-2012) by setting aside the impugned judgment and decree dated 25.10.2011 and for restoring the judgment and decree dated 12.03.2008, in view of the terms of compromise dated 10.08.2022 (Annexure A-4).

ii. Admitted written statement/reply dated 31.07.2023 is taken on record.

Accordingly, application disposed of.

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1. On joint request of learned counsel for the parties, main appeal, which is on the regular board of this Court at serial No.1015, is taken up for its hearing and disposal today itself.

2. Present Regular Second Appeal (RSA) has been filed by the plaintiffs (appellants herein), for seeking setting aside of impugned

judgment & decree dated 25.10.2011, passed by learned First Appellate Court, whereby, the judgment & decree dated 12.03.2008, passed by learned Trial Court, decreeing the suit of the plaintiffs (appellants), has been reversed by the learned First Appellate Court.

3. Plaintiffs (appellants) filed a suit seeking a decree for declaration to the effect that the order dated 16.11.1992, passed in execution, titled as, “Ramesh Saran vs. Jai Dayal”, by Assistant Collector, Ist Grade, Narnaul, and order passed by the Commissioner, Gurgaon in revision petition, titled as, “Ram Saran vs. Jai Dayal Etc.”, dated 26.05.1995, and also order dated 01.10.1997, passed by the Financial Commissioner, Haryana, Chandigarh, in revision, titled as, “Jai Dayal through LRs vs. Ram Saran etc.” are without jurisdiction, therefore, null and void, and not binding on the rights of the plaintiffs. Besides this, a consequential relief for restraining the defendants from ejecting the plaintiffs from the suit land was also prayed for.

4. Upon notice, defendants (respondents herein) filed written statement rebutting the claim of the plaintiffs.

After completion of the pleadings, framing of issues and leading of evidences by the respective parties, learned Trial Court decreed the suit vide judgment & decree dated 12.03.2008, by setting aside the orders dated 16.11.1992, 26.05.1995 and 01.10.1997, respectively, and further passed a decree of permanent injunction in favour of the plaintiffs, to the effect that defendant No.1 is restrained from ejecting the plaintiffs from the suit land.

5. Aggrieved against the judgment & decree passed by learned Trial Court, defendants preferred an appeal before the learned First Appellate Court. After re-appreciation of the evidence, learned First Appellate Court, reversed the judgment and decree passed by the learned

Trial Court.

6. Challenging the said judgment & decree dated 25.10.2011, passed by learned First Appellate Court, the appellants are in appeal before this Court.

7. Appeal was admitted vide order dated 22.02.2012, and operation of the impugned judgment and decree passed by the lower Appellate Court was also stayed.

8. During the pendency of the appeal, appellant No.1 and respondent No.8, expired, and their legal representatives were brought on record. CM-6219-C-2022, has been filed by the appellants for disposal of the appeal in terms of the compromise dated 10.08.2022 (A-4), arrived at between the respective parties. Said compromise has also been placed on record as Annexure A-4.

By way of CM-6219-C-2022, applicant-appellants have prayed for allowing the appeal in terms of the aforesaid compromise.

9. Mr. J.P. Sharma, learned counsel for the appellants made his submissions with regard to the disposal of the appeal in terms of compromise dated 10.08.2022 (A-4), arrived at between the parties.

Along with other parties, legal representatives of appellant No.1 & respondent No.8, who have already been brought on record, in the present proceedings, have no objection, if the impugned judgment & decree dated 25.10.2011, passed by the learned First Appellate Court, is set-aside, and the claim of the plaintiffs/appellants, as prayed in the suit is allowed, by affirming the judgment & decree dated 12.03.2008, passed by the learned Trial Court.

10. Learned counsel appearing for the respondents, on instructions from respondents/defendants/legal representatives stated at the bar that he

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has also no objection in allowing the prayer made in the application for allowing the present appeal by setting aside the judgment & decree dated 25.10.2011, passed by the learned First Appellate Court, and to uphold the judgment & decree dated 12.03.2008, passed by the learned Trial court.

11. I have heard learned counsel for the parties, and gone through the record available before me.

12. Parties to the *lis* are unison for grant of relief as prayed for in CM-6219-C-2022, as already noticed hereabove, and made their specific statement to that effect today in the Court.

13. In view of the prayer made in CM-6219-C-2022, to which no objection has been raised by learned counsel for the respondents and keeping in view the stand taken by respective parties and specific statements made on their behalf by their respective counsel, the main appeal i.e. RSA-112-2012 is **allowed**. The judgment & decree dated 25.10.2011, passed by the learned First Appellate Court, is **hereby set-aside**, and the judgment & decree dated 12.03.2008, passed by the learned Trial Court is **affirmed**.

Decree sheet be drawn accordingly.

A copy of this judgment & decree, be sent to the learned First Appellate Court as well as learned Trial Court for information.

Lower Court Records be also returned forthwith.

Civil miscellaneous application(s), if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

August 10, 2023

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No