

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA-3400-2023(O&M)
Date of Decision: 02.11.2023

Shish Ram deceased through LRs and another
...Appellants
Versus

Santosh
...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Lalit Pardhan, Advocate for the appellants.
Mr. Abhimanyu Singh, Advocate for the respondent.

HARKESH MANUJA, J. (oral)

1. By way of present appeal, challenge has been made to the judgments and decrees dated 11.11.2016 and 03.10.2023 passed by the Courts below, whereby suit for possession as well as permanent injunction filed, at the instance of respondent-plaintiff has been decreed with costs in her favour.
2. Briefly stating, the plaintiff-respondent, claiming herself to be the owner of residential plot bearing *khewat* no. 1832/1662, *khatoni* no. 2127, *khasra* no. 1215 (0-8) measuring 0 *kanal* 8 *marla* as per *jamabandi* for the year 2010-11 situated in the revenue estate of Dinod, Tehsil and District Bhiwani sought possession after removal of construction raised thereupon by the defendant-appellants over the same. Plaintiff-respondent further pleaded that the appellant-defendants

being brothers; Appellant No.1-defendant No.1, having an adjacent residential plot No. 1214 situated to the West of the suit property; in her absence occupied the plot in question in the month of June, 2013.

3. Upon notice, appellant-defendants appeared and took plea of adverse possession by claiming themselves to be the owners being in possession of the suit plot for the last more than 45 years to the knowledge of the plaintiff-respondent and the general public as well. The trial Court vide judgment and decree dated 11.11.2016 decreed the suit in favour of respondent-plaintiff and the appeal preferred by the appellant-defendants challenging the same was also dismissed by the Appellate Court vide judgment dated 03.10.2023.

4. Impugning the aforesaid judgments and decrees, learned counsel for the appellant-defendants submits that both the Courts below misread the evidence available on record. While referring to the electricity connection and the electricity bills Exs. DW3/A, DW3/B, DW4/A to DW4/D and D-1 to D-4. Learned counsel points out that the electricity meter No. DCID-0444 was installed in the premises occupied by appellant No.2/defendant No.2, which establishes his possession over the plot in question from the year 1996 onwards and thus, the suit was required to be dismissed by holding appellant-defendants to be its owners on the basis of adverse possession. He also submits that both the Courts below wrongly discarded these documents while recording that no property/plot number was mentioned therein.

He further submits that as a matter of routine practice no property numbers were mentioned in those receipts/bills and only name of the village was being mentioned by the Electricity Department.

5. I have heard learned counsel for appellant-defendants and gone through the paper-book and unable to find substance in the submissions made on behalf of the appellant-defendants.

6. A perusal of judgments and decrees passed by the Courts below clearly show that plaintiff-respondent has proved her ownership over the suit property/plot in question through *Jamabandi* for the year 2010-11 (Ex. P-7). Besides, the appellant-defendants have not been able to establish their long, un-interrupted, settled possession over it for more than 12 years before the date of filing of the suit, in order to prove the plea of adverse possession. Additionally, it has also been proved on which date they came in possession; their nature of possession; factum of possession made known to respondent-plaintiff and how long they continued in open and undisturbed possession.

7. The documents Exs. DW3/A, DW3/B, DW4/A to DW4/D and D-1 to D-4 have rightly been discarded by the Courts below, for the same having not been identified with the property in question. Furthermore, as per *Jamabandi* for the year 2010-2011 (Ex.P-7), the suit property has been recorded as plot containing no construction thereupon which itself belies the stand of appellant-defendants of being

in possession thereof having raised a house thereupon, for the past 45 years.

8. Moreover, none of the appellant-defendants chose to appear as a witness in support of their plea of long standing and adverse possession, setup in the written statement which formed part of their personal knowledge. On the other hand, their unauthorized occupation over 8 *marla* of suit land has been proved by appellant-plaintiff on the basis of demarcation report dated 27.12.2013 carried out by PW-2 (Rohtash Sharma) as Ex. P-1.

9. In view of the discussion made herein above, finding no illegality or perversity with the concurrent findings of facts recorded by the Courts below, there being no overlooking of the material available on record, re-appreciation of pleadings and the evidence being impermissible, the present appeal being devoid of merits is thus, dismissed.

10. Pending application(s), if any, shall also stand(s) disposed of.

02.11.2023

Mangal Singh

(HARKESH MANUJA)
JUDGE

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No