



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

112**RSA-723-2020 (O&M)****Date of Decision : 13.08.2024**

RAMESH AND ORS

.... Appellants

VERSUS

SURJIT KAUR AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajinder S. Rana, Advocate for the appellants.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by defendants No.1 to 3-appellants challenging the concurrent findings of facts returned by the Trial Court vide judgment and decree dated 26.10.2016 and the First Appellate Court vide judgment and decree dated 11.10.2019.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondents No.1 and 2 herein filed a suit for permanent injunction averring therein that they were owners in possession of land measuring 12 Marlas comprised in Khewat No.1, Khatoni No.2, Khasra No.633/2/3(0-12) situated within the revenue estate of Village Bazidpur, Tehsil Thanesar, District Kurukshetra vide sale deed dated 10.01.2012 and as depicted in the Jamabandi for the year 2011-12. It was further averred that defendants No.1 to 3-appellants had no right, title or interest in the suit land and they were threatening the plaintiff-respondents No.1 and 2 that they would take forcible possession of the suit land and for the said purpose they had collected the building material and tried to dig the foundation. Despite the

requests made by the plaintiff-respondents No.1 and 2, the defendants No.1 to 3-appellants did not desist from their illegal act and hence the suit.

3. On notice defendants No.1 to 3-appellants put in appearance and contested the suit by filing a joint written statement raising preliminary objections regarding maintainability, *locus standi*, non-joinder and mis-joinder of necessary parties. It was also stated in the preliminary objections that defendant-appellant No.2 (Amar Singh) along with one Sheru @ Sher Singh had filed a suit for permanent injunction against Smt. Amolak Kaur and others and the same was decreed by the Civil Judge, Kurukshetra on 26.05.2009 and defendant-appellant No.2 (Amar Singh) and Sheru @ Sher Singh were held to be in exclusive possession of the suit land and the defendants therein were restrained from interfering in their cultivating possession. It was further the stand taken that the plaintiffs had full knowledge of the said judgment and decree and they have not challenged the same. It was further the case that the sale deed dated 10.01.2012 was at a later stage and hence the same was not binding on the rights of defendants No.1 to 3-appellants. Defendant No.4-respondent No.3 herein also filed a separate written statement.

4. Replications were filed reiterating the averments made in the plaint and denying those of the written statements.

5. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiffs are entitled to decree for permanent injunction restraining the defendants from interfering in the ownership and possession of the plaintiffs over the suit land either by raising construction or in any other manner, forcibly and illegally ? OPP
2. Whether the present suit is not maintainable in the present form ? OPD
3. Whether the suit is bad for mis-joinder and non-joinder of the necessary parties ? OPD
4. Whether the plaintiffs have no locus standi and cause of action to file and maintain the present suit ? OPD
5. Whether the plaintiffs are estopped by their own act and conduct from filing the present suit ? OPD
6. Relief.

6. The Trial Court vide judgment and decree dated 26.10.2016 decreed the suit. Aggrieved by the same an appeal was preferred by defendants No.1 to 3-appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 11.10.2019. Hence, the present regular second appeal by defendants No.1 to 3-appellants.

7. Learned counsel for defendants No.1 to 3-appellants would contend that the earlier suit had been decreed in favour of defendant-appellant No.2 (Amar Singh) and Sheru @ Sher Singh holding them to be in

possession of the suit land and hence the findings returned by both the Courts are erroneous.

8. Heard.

9. In the present case both the Courts concurrently found that the plaintiff-respondents No.1 and 2 were owners in possession of the suit land measuring 12 Marlas having become owners vide sale deed dated 10.01.2012. Reliance was also placed upon by the Trial Court on the Jamabandi for the year 2011-12 (Ex.P-1) and Khasra Girdawari (Ex.P-2 and Ex. P-4). Judgment and decree dated 26.05.2009 relied upon by the learned counsel for defendants No.1 to 3-appellants do not even disclose the Khasra numbers and hence it cannot be said that the same pertains to the land in dispute in question. No other argument has been raised.

10. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

13.08.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No