



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CM No. 7554-C of 2024 in/and
RSA No. 748 of 2019 (O&M)
Date of Decision: 01.08.2024

Gram Panchayat Village Moi Hooda,
Tehsil Gohana, District Sonapat through
its Sarpanch Jagdish Chander

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for the applicant/appellant-defendant No. 4.

HARKESH MANUJA, J. (ORAL)

CM-7554-C-2024

Prayer in the present application moved on behalf of the
applicant-appellant/defendant No. 4, is for restoration of the main appeal,
which stood dismissed for non-prosecution vide order dated 22.07.2024
passed by this Court.

Notice of the main appeal has not been issued as yet.

In view of the averments made in the application, which make
out sufficient cause for non-appearance and duly supported by an affidavit of
the learned counsel, the same is **allowed**; the main appeal is ordered to be
restored at its original number and on request of the learned counsel for the
appellant, the main case is taken up today itself.

MAIN APPEAL

By way of present appeal, challenge has been laid to the judgment and decree dated 09.08.2018 passed by the Court of Additional District Judge, Sonapat (**hereinafter to be referred as “First Appellate Court”**), whereby an appeal against the judgment and decree dated 25.02.2014 passed by the Court of Civil Judge (Junior Division), Gohana (**hereinafter to be referred as “trial Court”**), decreeing the suit for permanent injunction, filed at the instance of respondent Nos. 4 to 7-plaintiffs, was dismissed, thereby affirming the judgment and decree passed by the trial Court.

[2] Briefly stating, claiming themselves to be in physical possession of the land in question, falling in Khewat No. 593 min/570 min, Khatoni No. 634 and 635, total measuring 24K-0M, situated in the revenue estate of Village Moi, Tehsil Gohana, District Sonapat (**hereinafter referred as to “suit property”**) being proprietors as “*Gair Marusi*” since the time of their ancestors, respondent Nos. 4 to 7-plaintiffs filed a suit for permanent injunction with a prayer for restraining the defendants, including appellant herein, from interfering in their possession over the suit property.

[3] Upon notice, the defendants appeared and contested the suit by filing written statement, while submitting that the suit property vests in Gram Panchayat and the plaintiffs-respondent Nos. 4 to 7 were having no right, title or interest therein and thus, no cause of action arose in their favour to file and maintain the suit for permanent injunction.

[4] Upon consideration of the pleadings, the trial Court, vide order dated 01.10.2011, framed the following issues:-

- “ 1. Whether the plaintiff is entitled to declaration to the effect that they are owners in possession of the suit land? OPP
2. Whether the plaintiff is entitled to permanent injunction restraining the defendants from dispossessing the plaintiffs from the suit land forcibly and illegally? OPP
3. Whether the suit filed by the plaintiffs is not maintainable in the present form? OPD
4. Whether the plaintiffs have no cause of action to file the present suit? OPD
5. Relief. ”

[5] The trial Court, vide judgment and decree dated 25.02.2014, decreed the suit of the plaintiffs-respondent Nos. 4 to 7, while holding them to be in possession of the property in question.

[6] Aggrieved thereof, the appellant-defendant No. 4 (Gram Panchayat, Village Moi, Tehsil Gohana, District Sonapat), filed first appeal, which came to be dismissed vide judgment and decree dated 09.08.2018 passed by the First Appellate Court, while upholding the decree for permanent injunction granted in favour of plaintiffs and restraining the defendants not to interfere in their possession except in due course of law. Hence, the present appeal.

[7] Impugning the judgments and decrees (supra) passed by the Courts below, learned counsel for the appellant-defendant No. 4 submits that in the given facts and circumstances, there was no threat perception about any kind of interference in the possession of plaintiffs-respondent Nos. 4 to 7 over the suit property and thus, in such circumstances, the Courts below went wrong while decreeing the suit for permanent injunction in their favour. He **further submits** that besides the revenue record in the shape of

Jamabandis for the year 1971-72 till 2006-07, there was no other evidence available on record to show the possession of plaintiffs over the suit property in question.

No other argument has been addressed on behalf of the appellant.

[8] After hearing learned counsel for the appellant and having gone through the paper-book / records, I am unable to find substance in the submissions made on behalf of the appellant-defendant No. 4.

[9] In the present case, the possession of plaintiffs-respondent Nos.4 to 7 over the property in question has been duly established on record through *Jamabandi* entries, which are proved on record as Ex. P-1 to Ex. P-14, relating to the year 1971-72 till 2006-07. Concurrent finding of fact has been recorded by both the Courts below to the effect that though the land in question is recorded to be owned by the appellant-Gram Panchayat, however, it is in long settled physical possession of the plaintiffs-respondent Nos. 4 to 7, who are cultivating the same. In terms of Section 44 of the Punjab Land Revenue Act, 1887, presumption of truth is attached to the entries of possession made in the revenue record in the shape of *Jamabandies*. Though such entries are rebuttable, however, in the given facts and circumstances, from the records, it is evident that no such effort to rebut the *Jamabandi* entries has been made by the appellant. In these circumstances, no illegality or perversity can be found with the concurrent finding of fact recorded by the Courts below as regards the possession of the plaintiffs-respondent Nos. 4 to 7 over the suit property.

[10] Furthermore, while referring to the statement made by DW1-Mahabir Singh, as pointed out by learned counsel for the plaintiffs-respondent Nos. 4 to 7, while admitting them to be in possession of the property in question, the appellant-Gram Panchayat filed an eviction petition (Ex. P-8) invoking Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961, and as such, no fault could be found with the reasoning recorded by the First Appellate Court, whereby the appellant-Gram Panchayat was restrained from interfering in the possession of plaintiffs-respondent Nos. 4 to 7, except in due course of law.

[11] In the humble opinion of this Court, no merit can be found in the submission made on behalf of the appellant that in the absence of there being any threat perception, the suit for permanent injunction filed at the instance of plaintiffs was not maintainable. Learned counsel for the appellant has not been able to point out anything to support such plea from the pleadings in the written statement.

[12] In view of the discussion made hereinabove, finding no illegality or perversity with the concurrent findings of the fact recorded by the Courts below, the present appeal being devoid of merits, the same is hereby **dismissed**.

[13] Pending miscellaneous application(s), if any, shall also stand disposed off.

August 01, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No