

2024:PHHC:150273



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

**RSA-1344-2020 (O&M)
Reserved on : 12.11.2024
Pronounced on : 19.11.2024**

Ranjit Singh & Ors.

....Appellants

VERSUS

Jasbir Kaur & Ors.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. V. K. Sandhir, Advocate for the appellants.

ALKA SARIN, J.

1. The present regular second appeal has been preferred by the plaintiff-appellants against the judgements and decrees dated 30.09.2016 and 19.10.2019 passed by the Trial Court and the First Appellate Court dismissing their suit for possession and decreeing the counter-claim filed by the defendant-respondent No.10.

2. The suit was filed by the plaintiff-appellants averring that the suit land was originally owned by their ancestor Kartar Kaur wife of Budh Singh. After the death of Kartar Kaur the suit land had come to her different branches in different shares. During her lifetime Kartar Kaur had given the suit land on lease to defendant-respondent Nos.1 to 3 and others. However, the lessees had started repudiating the tenancy and refused to accept the plaintiff-appellants as their landlords and also refused to give a share of the produce. Hence, the present suit for possession of the suit land. In her

written statement the defendant-respondent No.10 raised preliminary objections regarding maintainability, limitation, non-joinder of necessary parties, etc. On merits it was denied Kartar Kaur had given the suit land on lease. The inheritance of the estate of Kartar Kaur by the plaintiff-appellants was denied. It was submitted that Mohinder Singh s/o Budh Singh was a co-sharer in the Khata and he being co sharer/co-owner of 5 kanal 14 marla of land had sold it to the defendant-respondent No.10 vide sale deed dated 04.05.1992. Defendant-respondent No.10 also filed a counter-claim seeking a declaration that she was the owner in possession of land measuring 5 kanal 14 marla with a consequential relief of permanent injunction restraining the plaintiff-appellants from interfering in her possession. Separate written statement was filed by some of the other defendant-respondents.

3. From the pleadings of the parties following issues were framed :

- I) Whether the plaintiffs are entitled to the decree of possession of the suit land as prayed for in the head note of the plaint ? OPP
- II) Whether the plaintiffs have not come to the court with clean hands and have suppressed the material facts from the court ? OPD
- III) Whether the suit has not been valued properly for the purpose of court fee and jurisdiction ? OPD
- IV) Whether the counter claimant is owner in possession of the suit land as prayed for in the counter claim ? OPD counter-claimant

V) Whether the counter claim is legally not maintainable ? OPP

VI) Whether the counter claim is also not properly valued for the purpose of court fee and jurisdiction ?
OPP

VII) Relief.

4. Vide judgement and decree dated 30.09.2016 the Trial Court dismissed the suit of the plaintiff-appellants. However, the counter-claim of the defendant-respondent No.10 was decreed and she was declared as owner in possession of the land measuring 5 kanal 14 marla and the plaintiff-appellants were restrained from interfering in the lawful possession of the counter claimant illegally, forcibly and otherwise than in due course of law. The appeal of the plaintiff-appellants challenging the dismissal of their suit and acceptance of the counter-claim was also dismissed by the First Appellate Court vide judgement and decree dated 19.10.2019. Hence, the present regular second appeal.

5. Learned counsel for the plaintiff-appellants has contended that both the Courts have erred in dismissing the suit and decreeing the counter-claim. It is urged that the suit land was inherited by the plaintiff-appellants from Kartar Kaur and that the defendant-respondents were tenants on it. Since the defendant-respondents were denying their tenancy, the plaintiff-appellants were entitled to possession of the suit land.

6. Heard counsel for the plaintiff-appellants and perused the record.

7. In the present case the plaintiff-appellants have been unable to prove that the suit land was inherited by them from Kartar Kaur. They could not prove the Wills set-up by them. Further, if the status of the defendant-respondents was that of tenants then the remedy to evict them was before the revenue authorities and not the civil court. Still further, the defendant-respondent No.10 successfully proved the sale deed in her favour qua land measuring 5 kanal 14 marla. Apart from the oral testimonies, the plaintiff-appellants could not establish from any documentary evidence their right, title or interest in the suit land. The Trial Court found that *“The plaintiff has to stand on his own legs and whatever he is contending has to be proved by him on the basis of oral or documentary evidence, whatsoever and in the lack of that evidence the claim of the plaintiff does not sustain. Neither the Will, as alleged, nor the lease deed, as alleged, has been duly proved in order to substantiate the claim as raised by the plaintiffs”*. Learned counsel for the plaintiff-appellants is unable to point to any cogent and reliable evidence on the record to show that the suit land was owned by them having devolved on them on the death of Kartar Kaur. In the absence of such reliable evidence, the findings recorded by both the Courts cannot be faulted. Further, the sale deed in favour of the defendant-respondent No.10 has been proved and nothing has been pointed out to dislodge the findings recorded by both the Courts in this regard. No other point was argued.

8. In view of the above, no mistake or error of law or facts can be found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the

present case. The appeal being devoid of any merit is accordingly dismissed.
Pending applications, if any, also stand disposed off.

19.11.2024

(ALKA SARIN)
JUDGE

Ankur

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