

2024:PHHC:141718



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

**RSA-841-2020 (O&M)
Reserved on : 14.10.2024
Pronounced on : 29.10.2024**

BALJIT SINGHAppellant

VERSUS

GURDEEP SINGH AND OTHERSRespondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gaurav Kalsi, Advocate for
Mr. H.S. Batth, Advocate for the appellant.

ALKA SARIN, J.

1. The present regular second appeal has been preferred by defendant No.1-appellant challenging the judgments and decrees dated 21.05.2019 and 16.11.2019 passed by the Trial Court and the First Appellate Court respectively.
2. Brief facts relevant to the present *lis* are that the plaintiff-respondents No.1 and 2 herein filed a suit for permanent injunction for restraining the defendants (appellant and respondent No.3 herein) from interfering in the peaceful possession of the plaintiff-respondents No.1 and 2 over land measuring 03 Kanals 19 Marlas bearing Khata No.178/168 Khatoni No.409, Rectangle and Killa Nos.14//8/1/1 (2-6), 14//8/1/2 (0-10), 14//13/2 (0-3) as per jamabandi for the year 2013-14 situated in the revenue area of Village Pringri, Tehsil Patti, District Tarn Taran and further for restraining the defendants (appellant and respondent No.3 herein) forever

from taking possession of the suit property by force or in any manner except in due course of law. It was averred by the plaintiff-respondents No.1 and 2 that the defendants (appellant and respondents No.3 herein) have no right, title or interest in the suit property and that they were trying to interfere in their peaceful possession and were also threatening to dispossess them from the suit property.

3. In the written statement the defendants (appellant and respondent No.3 herein) took a stand that they were in actual physical possession of the suit property for over fifty years and that they had filed an application for correction of the entries in the Khasra Girdawari which was allowed by the Tehsildar-cum-A.C. 2nd Grade, Patti, District Tarn Taran vide order dated 05.05.2018.

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

1. Whether the plaintiffs are entitled to relief of permanent injunction as prayed for ? OPP
2. Whether suit is not maintainable in the present form ? OPD
3. Whether the plaintiffs have suppressed material facts from this Court ? OPD
4. Whether the present suit is bad for non-joinder of the necessary parties ? OPD
5. Whether the plaintiffs have got no *locus standi* and cause of action to file the present suit ? OPD

6. Relief.

5. The Trial Court decreed the suit vide judgment and decree dated 21.05.2019 holding that the plaintiff-respondents No.1 and 2 had proved their possession over the suit property whereas the defendants (appellant and respondent No.3 herein) had failed to lead any evidence with regard to their possession. Aggrieved by the judgment and decree dated 21.05.2019 an appeal was preferred by the defendants (appellant and respondent No.3 herein) which appeal was dismissed by the First Appellate Court vide judgment and decree dated 01.07.2019. Hence, the present regular second appeal by defendant No.1-appellant.

6. The learned counsel for the defendant No.1-appellant would contend that by way of an application being CM-3177-C-2020 for additional evidence, the application for correction of the Khasra Girdawari for the year 2017 filed by the defendants (appellant and respondent No.3 herein) has been sought to be placed on the record along with the reply thereto as also the order dated 16.11.2019 passed by the First Appellate Court dismissing the application under Order 41 Rule 27 CPC filed before the First Appellate Court. Learned counsel would further contend that the defendant No.1-appellant is in possession of the suit property and that he had also filed an application for correction of the Khasra Girdawari and hence both the Courts have erred in decreeing the suit of the plaintiff-respondents No.1 and 2.

7. Heard.

8. In the present case though it has vehemently being argued by the learned counsel for defendant No.1-appellant that the defendant No.1-

appellant is in possession of the suit property and an application for correction in the Khasra Girdawari was also filed by him, however, a perusal of the application reveals that the same was only for correction of the Khasra Girdawari for the year 2017. On a pointed query by the Court as to whether the revenue record prior to the year 2017 was in the name of the defendant No.1-appellant, learned counsel has candidly admitted that there is nothing on the record. Further still, in the order dated 16.11.2019 dismissing the application under Order 41 Rule 27 CPC it has been noticed by the First Appellate Court that the application for correction of the Khasra Girdawari was filed during the pendency of the civil suit and that the Khasra Girdawari sought to be led as additional evidence was changed during the pendency of the suit. There is no plausible reason forthcoming for not producing the documents at the stage of the trial. Learned counsel for the defendant No.1-appellant has not been able to point out to any cogent and reliable evidence on the record to even remotely suggest that the defendants (appellant and respondent No.3 herein) were in possession of the suit property.

9. 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 in the present case which requires determination by this Court. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

29.10.2024
Aman Jain

(ALKA SARIN)
JUDGE

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