



207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2379-2003 (O&M)
Date of decision : 29.11.2024

Har Kishan

...Appellant

Vs.

Hawa Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pritam Singh Saini, Advocate
for the appellant.

Mr. Kulvir Narwal, Advocate
Mr. Abhisar Chaudhary, Advocate
Ms. Geetanjali Bhatia, Advocate
for the respondents.

ANIL KSHETARPAL, J. (Oral)

1. This is the defendant's regular second appeal against concurrent findings of fact arrived at by the Courts below while granting injunction decree in favour of the plaintiffs.

2. Learned counsel representing the parties are *ad idem* that the Courts below have not opined about the ownership of the suit property.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

4. Learned counsel representing the appellant submits that in the jamabandi for the year 1967-68, 1972-73 and 1983-84, the name of Kirpa Ram was recorded in the ownership column, whereas, in the possession column

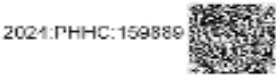


Amar Singh was recorded as *gair marusi* on payment of 1/3rd batai. He submits that subsequently Kirpa Ram died by leaving behind as many as seven class I heirs including five sons and two daughters. He submits that the suit property was sold by the heirs through two different sale deeds, one in favour of the plaintiff on 23.07.1985, whereas, another in favour to Smt. Jagwati. He submits that the appellant shall be deemed to have continued in possession of the property and therefore, the injunction granted in favour of the plaintiff is liable to be set aside.

5. *Per contra*, learned counsel representing the respondents submits that this parcel of land was acquired by the State and possession was taken in the year 1980. However, the acquisition was quashed and the possession was restored to the plaintiffs. Thereafter, the plaintiffs are in continuous possession of the property.

6. Learned counsel representing the appellant further submits that in the year 1985 only symbolic possession was delivered to the heirs of Kirpa Ram.

7. Be that as it may. There is a concurrent findings of fact upon appreciation of evidence that the plaintiffs are in possession of the property. The defendants are relying upon presumption of continuity of possession because in three jamabandis their predecessor was recorded in the ownership column. However, the defendants have not produced any other evidence including 'J' form and copies of khasra girdawari, electricity bills of the tube-wells to prove their continuous possession. It would not be appropriate for the Second Appellate Court to interfere with the concurrent findings of fact merely



on presumption.

8. The appeal stands dismissed.

29.11.2024

neeraj

(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No