

2024:PHHC:021436
**108 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-1230-1991 (O&M)
Date of decision: 14.02.2024

Zile Singh

....Appellant

Versus

Bhagwana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Susheel Gautam, Advocate for the appellant

Mr. Manoj Sharma, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the defendant assails the correctness of the judgment and decree passed by the First Appellate Court. The plaintiff filed a suit for the grant of decree of permanent injunction with respect to 6 kanals 9 marlas land comprised in Rect. no.77 khasra no.13/2 (4-0) and 18/1 (2-9). In the alternative, the plaintiff sought the relief of possession. It is the case of the plaintiff that Sh.Attar Singh and Sh.Hawa Singh as proprietors of the village filed a representative suit, which was decreed on 30.04.1971. Subsequently, the First Appellate Court reversed the judgment and decree passed by the trial court. The Regular Second Appeal filed by the proprietors was dismissed on 07.09.1982. In those proceedings, the plaintiff was declared the owner by way of adverse possession. Hence, he filed a suit for the grant of decree of permanent injunction.

2. The defendant (appellant) contested the suit on the ground that he is cultivating the land since November, 1970. The trial court

held that the plaintiff was owner of the property, however, the defendant is recorded in possession of the aforesaid land in the Khasra Girdawari. Thus, the suit was dismissed. The First Appellate Court on re-appreciation of evidence held that the defendant (appellant) Zile Singh is one of the proprietors of Thola Rumalia and the previous suit was filed by the proprietors, in the representative capacity, was dismissed. Hence, the defendant cannot claim any right, title or interest in the property as the aforesaid judgment passed in the previous suit, which has been upheld by the High Court vide judgment dated 07.09.1982, has become final. Thus, the First Appellate Court held that entry in the Khasra Girdawari reflecting the defendant in possession of the suit land as wrong and the plaintiff is entitled to decree for permanent injunction restraining the defendants from interfering in his possession with respect to land measuring 6 kanals 9 marlas comprised in Rect. no.77 khasra no.13/2 (4-0) and 18/1 (2-9)

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

4. Learned counsel representing the appellant submits that as per the entry in the Khasra Girdawari, the defendant (appellant) is in possession and therefore, the First Appellate Court has erred in reversing the judgment.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. The entries in the Khasra Girdawari do not carry the presumption of correctness. In the previous suit, the respondent

(plaintiff) was held to be in continuous uninterrupted possession and he has perfected his title by way of adverse possession. In these circumstances, the appellant, being member of the proprietary body, is bound by it. Hence, the appellant had/has no right, title or interest in the property.

7. Keeping in view the aforesaid facts, no ground to interfere is made out.

8. Hence, dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

14.02.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE