

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

135

2024:PHHC:041971

RSA-457-1991 (O&M)
Date of decision: 22.03.2024

BHANWAR SINGH ..Appellant

Versus

LALA RAM (DECEASED) THROUGH LRS. & ORS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ramesh Hooda, Advocate
for the appellant.

Mr. B.R. Rana, Advocate
for respondent No.1 to 4.

ANIL KSHETARPAL, J(Oral)

1. This is the defendant's regular second appeal against the concurrent findings of fact arrived at by the Courts below while decreeing plaintiffs suit for pre-emption on the ground that the plaintiffs are in possession of property as tenants. There is a slight modification in the judgment and decree passed by the First Appellate Court as during the pendency of the appeal, one of the plaintiff relinquished his share in favour of the vendee namely Sh. Bhawar Singh by entering into settlement. Thus, the suit has been decreed to the extent of 3/4th share of the suit.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. Sh. Deep Chand son of Sh. Ram Dass was owner of the property. Sh. Lala Ram, Sh. Narain, Sh. Tej Ram and Sh. Bal Ram sons of Sh. Kabbu son of Sh. Sohan Lal (the plaintiffs) were cultivating the land as tenant. Sh. Deep Chand sold the land to Sh. Bhawar Singh vide registered sale deed dated 18.11.1985. The aforesaid plaintiffs filed the suit claiming

superior right of pre-emption under Section 15 of the Punjab Pre-Emption

Act, 1913 (hereinafter referred to as the '1913 Act'). Sh. Bhawar Singh contested the suit. He claimed that he has filed an application seeking ejectment of the petitioners in the Court of Assistant Collector, Ist Grade and the plaintiffs have no locus standi to file the present suit.

4. In order to narrow down the issues involved in the present case, statements of Sh. Lala Ram one of the plaintiff and Sh. Bhawar Singh were recorded on oath prior to the settlement of issues. Sh. Bhawar Singh while appearing in evidence stated on oath that Sh. Lal Ram etc. are in possession of the property as tenants and they were in possession of the property before the suit land was purchased. The Court after granting opportunity to the plaintiff to file replication, decreed the suit on the ground that defendant No.1 has in substance admitted the plaintiffs case.

5. Defendant No.1 filed the first appeal. During the pendency of the first appeal, Sh. Tej Ram, one of the plaintiff entered into the settlement that the plaintiff relinquished his 1/4th share. Thus, the suit qua 1/4th share was dismissed, whereas, decreed with respect to the remaining 3/4th share was passed.

6. This appeal has come up for hearing after a period of 33 years.

7. The learned counsel representing the appellant contends that the Court has erred in decreeing the suit forthwith. He submits that the Court should have identified the issues involved in the case and called upon the parties to lead evidence. He submits that in absence thereof, the suit could not be decreed.

8. Per contra, the learned counsel representing the respondents while referring to the deposition of Sh. Bhawar Singh (appellant) submits

that the plaintiffs claim was admitted, hence, the suit has been correctly decreed.

9. This Court has considered the submissions of the learned counsel representing the parties.

10. Under Section 15 of the 1913 Act, the tenants of the property, which has been sold, have a superior right of pre-emption. This right continues to exist in State of Haryana, although, the rights of pre-emption on the basis of relationship, co-sharer etc. have been omitted.

11. In this case, the Court recorded the statement of the appellant Sh. Bhawar Singh (vendee). He admitted that the plaintiffs have continued in possession of the property as tenants prior to his purchase.

12. In these circumstances, the trial Court was not required to decide any other issue. The admission of the appellant is the best evidence. The plaintiffs' superior right of pre-emption is a statutory right. Once, the vendee admitted the aforesaid fact, no further trial of the case was necessary.

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

14. Dismissed accordingly.

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

March 22nd, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*