

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.

126 (Two Cases)

Date of Decision: 14.03.2024.

(1)

RSA-569-1991 (O&M).

FARZU AND ANOTHER

... Appellants

Versus

SMT. JAITUNI

... Respondent

(2)

RSA-570-1991 (O&M).

ROSHAN AND ANOTHER

... Appellants

Versus

SMT. JAITUNI

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Lakshya Aggarwal, for the appellants.

Mr. Amit Jain, Advocate, for the respondent.

VINOD S. BHARDWAJ, J (ORAL).

Both the above said Regular Second Appeals are being decided by a single order as the issue involved is common in the same.

2 Vide RSA-569-1991, a challenge is raised to the judgment and decree dated 29.09.1989 passed by the Court of Special Judge Second Class, F.P. Jhirka, Gurgaon, in Civil Suit No.136 of 05.05.1989 as well as the dismissal of the appeal by the District Judge, Gurgaon vide judgment and decree dated 18.12.1989, in a suit for possession instituted by the appellant. RSA-570-1991 emanates from a civil suit instituted by Roshan and another bearing Civil Suit No.108 of 03.05.1989, dismissed vide judgment and decree dated 29.09.1989 and the subsequent dismissal of Civil Appeal No.133/13 instituted on 12.10.1989, by the District Judge, Gurgaon, vide judgment dated 18.12.1989, in the suit for possession filed by the plaintiffs therein.

3 Learned counsel for the appellants-plaintiffs claim that the suit land was given to the forefathers for service of the Takia as Bhondedari land and that the husband of the defendant died and the services were not being offered. Hence, Bhondedari on the suit came to an end and that there was no subsisting right with the defendants to retain the possession of the

suit land and that the appellants-plaintiffs were entitled to take possession of the said land.

4 Upon consideration of the pleadings, issues were framed and in the light of the evidence led by the respective parties, it was recorded by the Courts below that as per the list of proprietors produced by the plaintiffs in the suit, they were not the owners of the suit land and were also not the proprietors of Patti Taj Khan. It was also observed that suit had been filed by the persons other than the proprietors of the Patti Taj Khan and that the same could not be treated as a suit in a representative capacity on behalf of the proprietors of the village. Consequently, the same was dismissed. In the appeal preferred by the appellants-plaintiffs, the Court considered the arguments advanced by the appellants-plaintiffs that Bhondedari should be succeeded in view of the precedent judgments and a finding was recorded that the suit land cannot be given to the appellants-plaintiffs since they have themselves failed to establish that they were proprietors in the land.

5 Learned counsel for the appellants-plaintiffs contends that during the pendency of the present appeal, the State of Haryana had already notified the Haryana Dholidar, Butimar, Bhondedar and Muqararidar (Vesting of Proprietary Rights) Act, 2010 (Act No.1 of 2011) and that in view of the subsequent enactment, the parties will have their respective claims in terms of the said Statute and therefore, he prays that both the suits be permitted to be withdrawn so as to enable the parties to establish their rights under the Haryana Dholidar, Butimar, Bhondedar and Muqararidar (Vesting of Proprietary Rights) Act, 2010 (Act No.1 of 2011).

6

Learned counsel for the respondent-defendant has no objection to the withdrawal of the suit by the appellants-plaintiffs.

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In view of above, the appellants-plaintiffs are permitted to withdraw the respective civil suits with liberties as aforesaid.

8

Both the present regular second appeals are disposed of accordingly.

9

A photocopy of the order be placed on the file of connected case.

March 14, 2024.

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(VINOD S. BHARDWAJ

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No