

213

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2487-1996 (O&M)

Date of decision : 14.03.2024

State of Punjab

... Appellant(s)

Versus

Pritam Singh and Others

...Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Vikas Suman Chaudhary, DAG Punjab.

Respondents No.1 and 2 already proceeded ex parte
vide order dated 28.04.1997.

ALKA SARIN, J. (ORAL)

1.

The present appeal has been preferred by the State challenging the judgments and decrees dated 17.12.1994 and 09.04.1996 passed by the Trial Court and the First Appellate Court, respectively.
2.

Brief facts relevant to the present *lis* are that the plaintiff-respondents herein filed a suit for permanent injunction for restraining the State of Punjab and Sub-Divisional Officer, Karhali Sub Division, Patiala from dispossessing them from the suit land without following the due process of law. The plaintiff-respondents pleaded that they had been in possession as tenants for about 25-30 years and that they had improved the land by spending huge amount. Notice was issued to the appellant-State. They contested the suit raising preliminary objections regarding cause of action and suit being false and frivolous. On merits, it was denied that the plaintiff-respondents were in possession as tenants. It was further averred that the appellant-State was in possession.

3. On the basis of the pleadings the following issues were framed :

1. Whether the plaintiffs are entitled to injunction prayed for ? OPD

2. Relief.

4. The Trial Court decreed the suit vide judgment and decree dated 17.12.1994. Aggrieved by the same, an appeal was preferred by the appellant-State which appeal was dismissed by the First Appellate Court vide judgment and decree dated 09.04.1996. Hence, the present regular second appeal.

5. Learned counsel for the appellant-State would contend that the suit was filed without issuance of a notice under Section 80 of the Code of Civil Procedure and hence the suit ought to have been dismissed. It is further the contention of the learned State counsel that there was no mention about the rent paid by the plaintiff-respondents.

6. I have heard the learned counsel for the appellant-State.

7. In the present case, both the Courts concurrently found that alongwith the suit an application was filed under Section 80(2) CPC seeking permission to file the suit without notice as the matter was of an urgent and immediate nature. The said application was allowed by the Trial Court. The same argument was raised before the First Appellate Court where also it was rejected on the ground that the Court proceeded with the suit which was filed alongwith an application under Section 80(2) CPC and even allowed temporary injunction.

8. Learned counsel for the appellant-State has not been able to show how the findings qua possession are erroneous. Both the Courts have

held that the present case is a simpliciter suit for permanent injunction based on possession. The possession of the plaintiff-respondents is apparent from the revenue entries consisting of jamabandis for the year 1967 to 1988 and Khasra Girdawari and there were also rent receipts of the year 1972 onwards. Hence, the argument of the learned counsel for the appellant-State that no rent was paid deserves to be rejected. There is not an iota of evidence on the record to show that the possession was ever taken from the plaintiff-respondents. No other point was argued.

9. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The regular second appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

14.03.2024
Ankur

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO