

*RSA No.1615 of 1997**2024:PHHC:023023*

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.1615 of 1997**Reserved on : 07.02.2024****Date of Decision: 20.02.2024**

State of Haryana & Ors.

....Appellants

VERSUS

Nihala

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Saurabh Girdhar, AAG Haryana for the appellants.

Respondent proceeded against ex-parte
vide order dated 21.10.1997.**ALKA SARIN, J.**

1. This regular second appeal is by the defendant-appellants challenging the judgements and decrees of both the Courts below whereby the suit of the plaintiff-respondent has been decreed.

2. The plaintiff-respondent filed a suit for permanent injunction averring that he was a cosharer in agricultural land in village Dharsul Khurd, Tehsil Tohana, District Hisar with which the defendant-respondents had got no concern. It was alleged that the employees of the defendant-appellants visited the suit land and threatened to interfere with the possession of plaintiff-respondent and other cosharers and also threatened to lift earth from the suit land and remove the trees standing thereon to which they had no right. In their written statement the defendant-appellants raised preliminary objections and on merits stated that the trees standing on the PWD land was the property of the State Government and that the defendant-appellants had every right to deal the trees in any manner they like. It was stated that the

trees standing on the land of the defendant-appellants were numbered and had been recorded in the registers maintained for this purpose. It was also stated that the suit land had been demarcated in the presence of the plaintiff-respondent through the Revenue Department and as per the demarcation report the trees were standing on the land of the defendant-appellants. Replication was filed by the plaintiff-respondent.

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

1. Whether the plaintiff is owner in possession of the suit land as detailed in the heading of the plaint and defendants have got no concern whatsoever with the same ? OPP
2. If so whether the plaintiff is entitled to the injunction prayed for ? OPP
3. Whether the plaintiff has not come to the Court with clean hands ? OPD
4. Whether the suit is not maintainable in the present form ? OPD
5. Whether the plaintiff has no locus standing and cause of action to file this suit ? OPD
6. Whether the suit, which has been filed with malafide intention, is liable to be dismissed with special cost u/s 35-A CPC ? OPD
7. Whether the suit is hit by S.34 of the Specific Relief Act ? OPD

8. Whether the suit has not been properly valued for the purposes of court fees and jurisdiction ? OPD

9. Whether the suit is bad for want of notice u/s 80 CPC ? OPD

10. Whether the suit is bad for mis-joinder and non-joinder of necessary parties ? OPD

11. Whether the plaintiff has not been filed any demarcation report on record hence suit is not maintainable ? OPD

12. Relief.

4. Vide judgement and decree dated the Trial Court 23.12.1995 decreed the suit of the plaintiff-respondent. The appeal of the defendant-appellants was dismissed by the First Appellate Court vide judgement and decree dated 18.12.1996. Hence, the present regular second appeal.

5. Learned counsel for the defendant-appellants has contended that the impugned judgements and decrees are illegal and erroneous and based upon conjectures and surmises. It is argued that the trees are standing on PWD land next to the road and thus a restraint order was not warranted. As per counsel the suit of the plaintiff-respondent ought to have been dismissed.

6. Heard learned counsel for the defendant-appellants and perused the record.

7. Both the Courts have reached concurrent findings of fact that the plaintiff-respondent is the owner in possession of the suit land, though there are other co-owners. Counsel for the defendant-appellants has been unsuccessful to show how the defendant-appellants can enter and dig and

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remove earth from the suit land belonging to the plaintiff-respondent or cut trees from the land belonging to the plaintiff-respondent. Nothing on the record has been pointed out to establish any right, title or interest of the defendant-appellants over the suit land. The restraint order passed against the defendant-appellants is qua the suit land belonging to the plaintiff-respondent and others and not qua the PWD land. No other point has been argued.

8. 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 appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.02.2024*Aman Jain*

(ALKA SARIN)
JUDGE

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