

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

RSA-566-2021 (O&M)
Date of decision: 04.04.2024

PARLAD (DECEASED) THROUGH LRS ..Appellant

Versus

RAMDHARI AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Kumar Gupta, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the defendant assails the correctness of the concurrent findings of fact arrived at by the Courts below while decreeing plaintiffs suit for the grant of decree of declaration with a consequential relief of permanent injunction. The plaintiffs have also filed an application for permission to lead an additional evidence in order to produce copy of electricity bill issued by Uttar Haryana Bijli Vitran Nigam Ltd. on 24.12.2020, with respect to a tubewell.

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

3. The plaintiffs being children of Sh. Ratti Ram filed the suit for grant of decree of declaration that the change in the ‘girdawari’ entry with respect to the kharif crop for the year 2013 is liable to be set aside with a consequential relief of permanent injunction restraining the defendants from dispossessing the plaintiffs forcibly. It is the case of the plaintiffs that they are in cultivating possession of 9 kanal and 16 marlas land. Previously, their

father Sh. Ratti Ram was cultivating the land as tenant on payment of 1/3rd share in the crop. In the jamabandi for the year 2010-2011, Sh. Ratti Ram is recorded in possession as tenant. The defendants are influential person and taking benefit of illiteracy of the plaintiffs. The entry in the '*khasra girdawari*' has been got changed in an illegal manner. Defendant No.1 while contesting the case claimed that he is in possession of the property and the plaintiffs have no concern with the same. It was claimed that the plaintiffs are trying to take advantage of the wrong entries and Sh. Ratti Ram occupied the land only for a period of one year and thereafter, surrendered to Sh. Narpat, the vendor of defendant No.1. It may be noted here that defendant No.1 has purchased the property from Sh. Narpat vide registered sale deed dated 25.05.1988.

4. In evidence, the plaintiffs produced copies of '*khasra girdawari*' from the crop Sawani-1971. It has been recorded that Sh. Ratti Ram, predecessor of the plaintiffs is cultivating the land as tenant under the owners. They also produced the copy of '*khasra girdawari*' for the crops Sawani-1981 to Hari 1985 and Sawani-2011 to Sawani 2013. They also produced the copy of jamabandi for the year 2010-2011, which proves that Sh. Ratti Ram was in possession as tenant. In column No.9, there is an entry of rate of rent.

5. Upon appreciation of evidence, both the Courts below have decreed the suit.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with the requisitioned lower Court record.

7. The learned counsel representing the appellant has made the following submissions:-

- i. The electricity bill of the tubewell installed in the land proves that the appellant (defendant) is in possession.
- ii. The plaintiffs are not in possession and therefore, the suit filed by them is not maintainable. He submits that the entry in favour of Sh. Ratti Ram, who died in the year 1999, is factually incorrect and therefore, wrongly relied upon by the Courts below.
- iii. There is only a stray entry in favour of the plaintiffs, which cannot be made basis to grant decree of injunction, particularly when there is no evidence of payment of rent.

8. This Court is considered the submissions of the learned counsel representing the appellant.

9. It is evident that electricity bill does not connect to the suit land. It is a bill issued by electricity supply company to the defendant in the year 2020. The defendant came into picture for the first time on purchase of land in the year 1988. The revenue record from the year 1971 consistently proves that Sh Ratti Ram was in possession. There is no evidence that he was ever dispossessed. The entry in favour of Sh. Ratti Ram is not a stray entry. Rather, the revenue record reflect that Sh. Ratti Ram was in possession of the property 17 years before the defendant purchased the land. The defendant No.1 has also not examined his vendor Sh. Narpat. There is no evidence that Sh. Ratti Ram or his successor in interest ever surrendered through tenancy or delivered possession either to the vendor of the defendant or to the

defendant. The revenue record carries a presumption of correctness. Though, such presumption is rebuttable, however, some cogent evidence is required to be produced in order to substantiate the same. Moreover, defendant-appellant purchased the property in the year 1988, whereas, the plaintiffs filed the suit in March, 2014. The defendant has not produced any copy of the jamabandi from the year 1988 till 2014 to prove that he is in possession.

10. Both the Courts below have found that the revenue authorities made a change in the entry by omitting name of Sh. Ratti Ram without issuing notice to the plaintiffs. Such change of entry is not permissible and is in violation of instructions issued by the Financial Commissioner.

11. Keeping in view the aforesaid discussion, no ground to interfere is made out.

12. Dismissed accordingly.

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

April 04th, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No