

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**209****RSA No.2193 of 1998 (O&M)****Reserved on : 20.02.2024****Date of Decision : 11.03.2024**

Chandgi Ram (deceased) through LRs

....Appellant

VERSUS

Kartar and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr.R.K. Gupta, Advocate for the appellant.

Mr.Ashwani Talwar, Advocate for the respondent Nos.1 to 7.

Mr.Sandeep Kumar Yadav, Advocate for the respondent No.11.

ALKA SARIN, J.

1. This regular second appeal by is by the original plaintiff No.3 (plaintiff-appellant) against the judgement and decree dated 14.12.1992 passed by the Trial Court dismissing his suit, and judgement and decree dated 17.03.1998 passed by the First Appellate Court dismissing his appeal.

2. The plaintiff-appellant, alongwith three others, filed a suit for permanent injunction and mandatory injunction against the defendant-respondents on the allegations that they were owners in possession of the suit land measuring 16 Kanals 8 Marlas comprised in Khasra Nos.335, 336, 337, 338, 339, 364, 373 and 375 with houses thereon in Village Kakrala, Tehsil and District Mahendergarh. Earlier, the Gram Panchayat had also moved an application under Sections 7 and 13-A of the Punjab Village Common Lands Act, 1961 against the plaintiffs wherein they were declared

as owners in possession of the suit land vide order dated 02.12.1985 passed by the Assistant Collector 1st Grade, Mahendergarh. The defendant-respondents, without any right, title or interest, were bent upon to interfere in the peaceful possession of the plaintiffs over the suit land. Hence, the suit. The defendant-respondents contested the suit and filed written statement raising preliminary objections. On merits it was claimed that the defendant-respondents were in possession of the suit land since 50/60 years. It was also pleaded that the suit land did not form part Khasra Nos.335, 336, 337, 338, 339, 364, 373 and 375 and that the order dated 02.12.1985 of Assistant Collector 1st Grade was not binding upon them as they were not party to that. Replication was filed by the plaintiffs denying the averments made in the written statement and reiterating those made in the plaint.

3. The Trial Court framed the following issues :

1. Whether the plaintiffs are owners in possession of the disputed property detailed in the head note of the plaint ? OPP
2. Whether the plaintiffs have no locus-standi to file the present suit ? OPD
3. Whether the suit is not maintainable in the present form ? OPD
4. Whether the suit is time barred ? OPD
5. Whether the defendants are entitled to special costs ? OPD
6. Relief.

4. Vide judgement and decree dated 14.12.1992 the Trial Court dismissed the suit. It was found that the plaintiffs had been unable to prove

their ownership and possession over the suit land. Out of the four original plaintiffs, only the plaintiff-appellant filed an appeal against the judgement and decree of the Trial Court. Vide judgement and decree dated 17.03.1998 the said appeal was dismissed. Hence, the present regular second appeal.

5. Learned counsel for the plaintiff-appellant has contended that the ownership and possession of the plaintiff-appellant over the suit land is proved on the record and that the Courts below have erred in dismissing his suit and appeal. Per contra, learned counsel for the defendant-respondents submitted that the Courts have reached concurrent findings of fact that the plaintiff-appellant is not the owner in possession of the suit land and that the decisions of the Courts below need no interference.

6. Heard learned counsel for the parties and perused the record.

7. Learned counsel for the plaintiff-appellant has been unable to point to anything on the record to establish that the plaintiff-appellant is owner of the suit land. The plaintiff-appellant failed to produce a single document of title in respect of the suit land. He has placed reliance on the order dated 02.12.1985 passed by the Assistant Collector 1st Grade, which order was considered and discarded by the Courts below for the reason that the same was subsequently set aside. Having led in evidence only revenue documents, which are essentially fiscal in nature, this Court has no hesitation in holding that in the present case the plaintiff-appellant has been unable to assert his case to a high degree of probability. Moreover, revenue authorities or revenue courts cannot decide complicated cases involving disputes regarding title for which the jurisdiction only lies with the civil court. No other point was argued.

8. Before parting this Court it would also be appropriate to mention that it has come on record vide CM-13102-2013 filed in the present appeal that vide an order dated 21.11.2001 the original plaintiffs have been declared as owners in possession of the suit land by the Assistant Collector, Mahendergarh and mutation has also been sanctioned in their favour. Thereafter, some of the original plaintiffs have even sold part of the land in dispute. Be that as it may, since a question of title can only be determined by the civil court, this Court leaves it open to the parties to proceed in accordance with law to establish their right, title or interest in the suit land and/or challenge the order dated 21.11.2001 in appropriate proceedings.

9. In view of the discussion above, the impugned decisions rendered by the Trial Court and First Appellate Court in the suit for injunction, not being in violation of the settled position of law, do not require to be interfered with. The present regular second appeal is dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

11.03.2024
jk

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