

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

143

RSA-1559-2024 (O&M)
Date of decision: 02.07.2024

BOHTI RAM AND ANR.

..Appellants

Versus

SURENDER AND ORS.

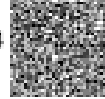
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jagjeet Singh, Advocate
for the appellant (through video conferencing).

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the defendants assail the correctness of First Appellate Court's judgment, which is turn has reversed the judgment of the trial Court. The plaintiffs belong to 'Kumhar' community. They filed the suit for grant of decree of declaration with a consequential relief of permanent injunction claiming that the suit land was reserved for 'Kumhar' community and it was recorded as 'panjawa' where the members of 'Kumhar' community make utensils/earthen pots.
2. In fact father of defendants filed a civil suit against Gram Panchayat, which was dismissed, however, the First Appellate Court allowed the same. Such decree is null and void. The defendants while contesting the suit claimed that they are owner of the property because of judgment and decree dated 14.08.1999. The trial Court dismissed the suit, however, the First Appellate Court on appreciation of evidence found that the suit property was reserved during consolidation of holdings for preparing earthen pots by



the '*Kumhar*' community. It was also found that the property vests in the Gram Panchayat and the judgment and decree dated 14.08.1999 is not binding on the plaintiff. The Court also found that as per the jamabandi for the year 1999-2000, the property is owned by the Gram Panchayat and there is an entry of '*gair mumkin panjawa*' in Column No.8. The same entry is continuing in the jamabandi for the year 2009-2010.

3. Thus, the First Appellate Court reversed the judgment and decree passed by the trial Court.

4. The learned counsel representing the appellant contends that as per the jamabandi for the year 2009-2010, the suit property is recorded to owned by Sh. Bohti Ram (defendant-appellant). He submits that the First Appellate Court has erred in accepting the appeal.

5. This Court has considered the submissions of the learned counsel representing the appellants.

6. It is evident that the previous judgment and decree is not binding upon the plaintiffs because they are not party to the decree. Moreover, the suit property is proved to be used for '*Kumhar*' community, which belong to lower strata of the society. This fact is proved from jamabandi for the year 1999-2000. In the ownership column, the suit land is belonging to the Gram Panchayat. As per Section 13 of the Punjab Village Common Land (Regulation) Act, 1961, the jurisdiction of Civil Court is excluded to decide such claims.

7. In these circumstances, the decree passed in the year 1999 would be adversely affecting the plaintiffs right to use the same.

8. The learned counsel representing the appellants did not press any other argument.



- 9. Hence, no ground to interfere is made out.
- 10. Dismissed accordingly.
- 11. All the pending miscellaneous applications, if any, are also disposed of.

July 02nd, 2024

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*

(ANIL KSHETARPAL)

JUDGE