

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-1124-2018 (O&M)****Reserved on : 11.11.2024****Pronounced on : 19.11.2024**

Natha Singh & Ors.

....Appellants

VERSUS

Amarjit Kaur & Ors.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajinder Singh Rangpuri, Advocate for the appellants.

ALKA SARIN, J.

1. The present regular second appeal has been preferred by the plaintiff-appellants against the judgements and decrees dated 16.08.2016 and 12.09.2017 passed by the Trial Court and the First Appellate Court dismissing their suit for permanent injunction.

2. The suit was filed by the plaintiff-appellants averring that they are owners in possession of the suit land which has been purchased by them from the co-sharers. The defendant-respondents have no concern whatsoever with the ownership or possession of the suit land but they intended to interfere and dispossess the plaintiff-appellants from the suit land. Hence, the suit for permanent injunction. The defendant-respondents contested the suit and filed a written statement contending that the parties (plaintiff-appellants and defendant-respondents) are co-owners and that the defendant-respondents had filed an application for partition in the Court of Assistant

Collector 1st Grade Gidderbaha which application was decided in favour of the defendant-respondents and that they were taking possession as per law.

3. From the pleadings of the parties following issues were framed :

1. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for ? OPP
2. Whether suit is not maintainable in the present form ? OPD
3. Whether the plaintiff has concealed material facts from the Court ? OPD
4. Relief.

4. Vide judgement and decree dated 16.08.2016 the Trial Court dismissed the suit of the plaintiff-appellants. The appeal of the plaintiff-appellants was also dismissed by the First Appellate Court vide judgement and decree dated 12.09.2017. Hence, the present regular second appeal.

5. Learned counsel for the plaintiff-appellants has contended that both the Courts have erred in dismissing his suit. It is urged that the plaintiff-appellants are owners in possession of the suit land and therefore their possession ought to be protected.

6. Heard counsel for the plaintiff-appellants.

7. In the present case the plaintiff-appellants have been unable to prove their exclusive possession over the suit land. Admittedly the vendors of the plaintiff-appellants were co-sharers in the suit land. Therefore, upon purchase by the plaintiff-appellants they also became co-sharers. The defendant-respondents had approached the revenue authorities for partition of the joint holding and it is in pursuance to those proceedings that the

possession of the parties came to be disturbed leading to the filing of the present suit. The plaintiff-appellants have also been held to be guilty of concealing material facts from the Court in as much as they did not disclose the partition proceedings in the plaint. The First Appellate Court found that “ The appellants also are guilty of suppressing material facts from the Court *about the proceedings of partition initiated by respondents and on this ground also, appellants are not entitled to equitable relief of injunction. It has come into the evidence that Assistant Collector First Grade, Gidderbaha, vide order dated 25.08.2008 (Ex.D3) has ordered to partition the suit property. Sanad Takseem (Ex.D7) also has been prepared and revenue record (Ex.D4) shows the numbers of the land which have fallen to each of the co-sharers after the partition. It is not that appellants were not aware about the partition proceedings. Rather, they are the one who preferred revision against order (Ex.D3) whereby Naqshas ‘Bey’ and ‘Jeem’ were approved in the partition case. This revision petition was also dismissed. Thereafter, appellants further have not challenged these partition proceedings, which obviously have become final and in pursuance thereof, warrant of possession (Ex.DW2/A) has been issued by revenue authorities. Therefore, this contention of the appellants that respondents are trying to interfere in their land forcibly and illegally and without due course of law is without substance and without merits” . Learned counsel for the plaintiff-appellants is unable to point to any cogent and reliable evidence on the record to dislodge the concurrent findings of fact recorded by both the Courts. In the absence of such reliable evidence, the findings recorded by both the Courts cannot be faulted. No other point was argued.*

8. In view of the above, no mistake or error of law or facts can be found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

19.11.2024
jk

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No