

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****112****RSA-558-2020 (O&M)****Date of Decision : 17.09.2024**

Munshi Ram Deceased through LR's and Ors.

....Appellants

VERSUS

Om Parkash and Ors.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Varun Veer Chauhan, Advocate for the appellants.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the defendant-appellants challenging the judgment and decree dated 07.02.2017 passed by the Trial Court and the judgment and decree dated 20.07.2019 passed by the First Appellate Court.

2. The brief facts relevant to the present *lis* are that the plaintiff-respondents herein filed a suit for permanent injunction for restraining the defendant-appellants from raising any type of construction over the suit property or from changing the nature of the suit land and further from transferring the possession of the suit property. The plaintiff-respondents claimed themselves to be the owners of the suit land on the basis of the Jamabandi for the year 2007-08 read with mutation No.1839 to 1946 and 1967. It was further averred that the defendant-appellants were reflected in possession of the suit property in the capacity of helpers and their possession in the revenue record has been reflected in the capacity of *Batai-Tihai Galla Va Neera Billa Kharach Shayak Kheti*. It was further the case that the

possession of the defendant-appellants was not that of a tenant but of a helper and that the defendant-appellants had no right or authority to change the nature of the land. On notice, the defendant-appellants filed their written statement and claimed themselves to be in possession of the suit property as occupancy tenants. It was further denied that the possession of the defendant-appellants was that of a helper. It was the case set up that they are in possession as occupancy tenants and it was further averred that they had become owners as they were in possession without payment of *Batai* or rent.

On the basis of pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to relief of permanent injunction as prayed for ? OPP
2. Whether the plaintiffs have concealed the sanction of grant by the government and as such the plaintiffs are not entitled to the relief of injunction ? OPD
3. Relief.

3. The Trial Court held that though the defendant-appellants had claimed that they were in possession of the suit property as occupancy tenants and had raised some construction, the entry in the column of *Lagan* reflected them as being helpers or *sahayak*. It was further noticed that the defendant-appellants have not challenged the revenue entries reflecting them as *sahayak*. The suit was accordingly decreed. Aggrieved by the same an appeal was preferred which was dismissed vide judgment and decree dated 20.07.2019. Hence, the present regular second appeal.

4. Learned counsel for the defendant-appellants would contend that the revenue record has not been appreciated and interpreted properly by both the Courts. It is further the contention that the defendant-appellants are occupancy tenants and have been in possession of the suit land and electricity bills have also been produced to reflect their possession. It has further been contended that only further construction was being raised as already there was construction over the suit property.

5. Heard.

6. In the present case the Jamabandi relied upon by the plaintiff-respondents clearly reflected the defendant-appellants as *sahayak*. There was no evidence led to the contrary by the defendant-appellants though they claimed themselves to being occupancy tenants. The arguments of learned counsel for the defendant-appellants that there are electricity bills to show possession of the defendant-appellants is not even a point in dispute as the injunction sought was only for restraining the defendant-appellants from carrying out any construction or from changing the nature of the suit property. The argument of learned counsel for the defendant-appellants that there was already construction over the suit property would also be of no assistance as the defendant-appellants have failed to lead any cogent evidence to prove as to that they are occupancy tenants as claimed. In the absence of any evidence led by the defendant-appellants to show that they were in possession of the suit property as tenants or occupancy tenants as claimed by them, no fault can be found with the judgments and decrees

passed by both the Court holding that the defendant-appellants were reflected as *sahayak* or helper in the revenue record.

7. 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.

17.09.2024
jk

(ALKA SARIN)
JUDGE

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