

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4663-2018(O&M)
Date of decision :08.04.2024

Ram Kumar and others ...Appellants

Vs.

Dilbagh Singh (since deceased) through LRs ...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Raj Kumar Bhatia, Advocate
for the appellants.

Mr. Sandeep Punchhi, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. In this regular second appeal, the defendants assail the correctness of concurrent finding of fact arrived at by the Courts below while decreeing the plaintiffs suit for grant of decree of permanent injunction restraining the appellants from interfering in their possession.
2. On the one hand, the plaintiffs claimed to be owner in possession of the suit property by virtue of a sale deed executed by Rai Singh in their favour on 30.01.2012. Originally, Smt. Mathri Devi was owner of the property. She through a general power of attorney sold the property in favour Rai Singh. In both the sale deed it was recorded that the possession of the property has been delivered to the purchasers. Thus, the plaintiffs filed the suit. The defendants(appellants) are related to Sh. Birbal. The defendant No.1 son of Sh. Birbal whereas the defendants No. 2 and 3 are grand-children of Sh. Birbal. Upon the appreciation of evidence, both the Courts have held that the defendants have failed to prove their

possession.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book alongwith the requisitioned Lower Court Record.

4. Learned counsel representing the appellants submits that the appellants are recorded to be in possession upon the *Nehri Girdawaries* and they are continuously paying *batai*. He submits that the appellants can be dispossessed only in accordance with law.

5. *Per contra*, learned counsel representing the respondent submits that in the revenue record as well as in the sale deeds, the delivery of possession in favour of the plaintiffs is proved and the plea set up by the defendants that they are tenants is not substantiate on the record.

6. This Court has considered the submissions of learned counsel representing the parties.

7. The entries in the *Nehri Girdawaries* do not carry any presumption of correctness. The predecessor of the defendants had executed the sale deed and delivered possession of the suit property to Sh. Rai Singh. There is no evidence to prove that the defendants were ever inducted as tenants. The tenancy is a bilateral contract between the parties. In this case, the defendants are closely related to the vendors, who have sold the property after receipt of sale consideration.

8. Hence, no ground to interfere is made out.

9. Dismissed.

08.04.2024

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Whether speaking/reasoned :

Whether Reportable :

(ANIL KSHETARPAL)
JUDGE

Yes No

Yes No