

2025:PHHC:035562



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RSA-3731-2018 (O&M)
Reserved on : 03.03.2025
Pronounced on : 17.03.2025**

Surender & Ors.

....Appellants

VERSUS

Kuldeep & Ors.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanjay Mittal, Advocate for the appellants.

ALKA SARIN, J.

1. The present appeal has been preferred by the defendant Nos.3 to 6-appellants challenging the judgment and decree dated 14.08.2015 passed by the Trial Court and judgment and decree dated 24.01.2018 passed by the First Appellate Court whereby the suit for permanent injunction filed by the plaintiff-respondent Nos.1 to 9 has been decreed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent Nos.1 to 9 filed the suit qua land measuring 9 Kanal 15 Marla averring that a Civil Suit No.319 of 1971 titled as Hukma etc. Vs. Jug Lal etc. for possession by way of partition was instituted in the civil court which was decided and a preliminary decree was passed on 14.01.1985. The suit land was also part of that suit property. An application for passing of the final decree was submitted and on 22.03.1996. Sh. Wazir Chand was appointed as

LC to suggest the mode of partition. The LC submitted his report and final decree was passed by the civil court and the final decree was prepared on the basis of the LC report on 18.02.2000. It was further averred that the plaintiff-respondent Nos.1 to 9 were also co-sharers in the suit property mentioned in Civil Suit No.319 of 1971 and were allotted their separate shares. The plaintiff-respondent Nos.1 to 9 filed execution and the same has been satisfied and they got symbolic as well as physical possession of their separate shares in the suit land. It was stated that the defendants had no right, title or interest in suit land but when on 14.02.2010 the plaintiff-respondent Nos.1 to 9 planned to raise a boundary wall and were directing the contractor to dig the foundation, the defendants along with few other muscle men came at the site and objected to the digging of the foundation. However, an altercation was avoided due to intervention of the villagers. Hence, the present suit. The defendant Nos.3 to 6-appellants filed a joint written statement taking the stand that the suit land was owned and possessed by the Municipal Committee, Beri. According to them their ancestors were in the business of brick making for the last 50-60 years and even today the defendant Nos.3 to 6-appellants were in possession of the suit land. It was further submitted that Civil Suit No.319 of 1971 was not filed against them and they were never party to the earlier suit. The possession of the plaintiff-respondent Nos.1 to 9 on the suit land was denied.

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

1. Whether plaintiffs are owner in possession of land mentioned in para no. 4 of the plaint ? OPP
2. Whether defendants are liable to be restrained from interfering into the peaceful possession of property mentioned in para no. 4 of the plaint ? OPP
3. Whether the plaintiffs have no cause of action to file the present suit ? OPD
4. Whether suit of plaintiffs is barred by limitation ? OPD
5. Relief.

4. The Trial Court vide judgment and decree dated 14.08.2015 decreed the suit of the plaintiff-respondent Nos.1 to 9. Aggrieved by the decision of the Trial Court, an appeal was preferred by the defendant-appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 24.01.2018. Hence, the present regular second appeal by the defendant-appellants.

5. The learned counsel for the defendant-appellants has contended that both the Courts have erred in decreeing the suit of the plaintiff-respondent Nos.1 to 9. It is urged that the suit land was owned by the Municipal Committee and was in possession of the defendant-appellants and therefore the suit deserved to be dismissed. According to counsel the suit land has been in possession of the defendant-appellants who are using it for preparing the bricks. Along with the present appeal an application (CM-9619-C-2018) for additional evidence has been filed to place on record a judgment and decree

dated 07.02.2015 passed in a suit titled ‘Surender Kumar & Ors. vs. Jeet Singh & Ors.’.

6. Heard.

7. In the present case both the Courts have held that the plaintiff-respondents had sufficiently proved that the suit land came to their share in partition proceedings conducted by the Court and that they were in possession. In a suit for permanent injunction the court is only to see the possession. The present suit was not for declaration of any ownership rights. The Courts have found that the possession of the plaintiff-respondent Nos.1 to 9 stood established. No cogent and reliable evidence has been pointed out by counsel for the defendant-appellants to the contrary. In absence of any evidence in this regard, the plaintiff-respondent Nos.1 to 9 were entitled to the injunction to protect their possession. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. The First Appellate Court has, while dismissing the appeal, also observed that *“nothing observed in this appeal shall effect the rights of Municipal Committee Beri to do take any action in consequence of their ownership or possession of the suit property nor any thing interfered qua the Municipal Committee Beri”*. No credible and reliable evidence has been highlighted by the counsel for the defendant-appellants for this Court to take a contrary view from the one taken by both the Courts. In view thereof, no fault can be found with the findings returned by both the Courts concerned. No other point was argued. The application for additional evidence does not further the case of the defendant-appellants and moreover there is nothing forthcoming in the application about

the relevance of the judgment and decree dated 07.02.2015 passed in a suit titled 'Surender Kumar & Ors. vs. Jeet Singh & Ors.' to the case in hand. There are no material averments in the said application.

8. In view of the discussion above, no question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. The application for additional evidence (CM-9619-C-2018) is also dismissed. Other pending applications, if any, also stand disposed off.

17.03.2025*Ankur***(ALKA SARIN)
JUDGE**

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