



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
116 **RSA-2321-2022 (O&M)**
Date of decision: 23.01.2025

Om Parkash & Another

...Appellant(s)

Vs.

Gram Panchayat, Sanghipur

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Ranjit Saini, Advocate
for the appellants.

NIDHI GUPTA, J.

The plaintiffs are in second appeal before this Court against the concurrent findings of the learned Courts below whereby the suit of the plaintiffs for permanent injunction has been dismissed vide judgment and decree dated 06.07.2018 passed by the learned Civil Judge, Junior Division, Yamuna Nagar at Jagadhri passed in Civil Suit No.22-18; duly affirmed by the learned Additional District Judge, Yamuna Nagar at Jagadhri vide judgment and decree dated 21.12.2021 in Civil Appeal No.341of 2018.

2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellants are 'the plaintiffs', whereas the respondent is 'the defendant'.

3. The brief facts of the case are that the plaintiffs filed the present suit for permanent injunction claiming therein that the plaintiffs along with others are owners of the suit land bearing khasra No.328-329 and are in actual physical and cultivating possession as co-sharers under mutual settlements. It was pleaded that on the eastern side of the suit land,



43 poplar trees are standing which had been planted by the plaintiffs in their own land; and on the eastern side of the suit land, there is rasta which vests in the Gram Panchayat/defendant/respondent herein. As the defendant was threatening to cut and remove the trees in question, the plaintiffs were constrained to file the present suit. The plaintiff No.2 had moved an application to the Assistant Collector, Second Grade for demarcation of the suit land. As per the report (Ex.P1/Annexure A1) it was reported that the said 43 trees were existing inside the land bearing khasra Nos.328-329 which belongs to the plaintiffs. The said demarcation was also admitted by the Assistant Collector, Second Grade on 24.08.2012. Therefore, present suit.

4. Upon notice, defendant appeared and filed written statement resisting the suit on various grounds and inter alia contending that the defendant is owner in possession of khasra No.355/2 which is passage and the 59 poplar trees, 14 safeda and 16 other trees which existed in the suit land, were planted by the defendant/Gram Panchayat. It was further averred that the plaintiffs had wrongly mentioned that the trees are standing in their land in khasra Nos.328-329 on the basis of false demarcation report; whereas in actual fact the trees were standing in the land bearing khasra No.355/2 which belongs to the defendant. Replication was not filed.

5. On the basis of pleading of the parties, following issues were framed on 04.11.2015: -



“i) Whether plaintiffs are entitled to the relief for Permanent Injunction as prayed for? OPP.

ii) Whether the suit of the plaintiffs are not legally maintainable? OPD

iii) Whether the plaintiffs have no locus standi and estopped from filing the present suit. OPD

iv) Relief.”

6. The suit of the plaintiffs was dismissed by the learned trial Court and the appeal filed by them thereagainst also stood dismissed by the learned First Appellate Court.

7. Learned counsel for the plaintiffs as very vehemently tried to impress upon this Court that it is clear from the demarcation report (Ex.P1) that the trees exist on the land owned by the plaintiffs bearing khasra Nos.328-329. It is submitted that in view of the clear-cut demarcation report (Ex.P1), the suit of the plaintiffs could not have been dismissed. As such, the concurrent judgments and decrees of the learned Courts below suffer from patent infirmity, and being contrary to the record and deserve to be set aside.

8. No other argument is made on behalf of the plaintiffs.

9. I have heard learned counsel for the plaintiffs and perused the case file in great detail.

10. I find no merit whatsoever in the submissions made on behalf of the plaintiffs. Perusal of the record shows that demarcation Report Ex. P1, was obtained on the application made by the plaintiffs.



Whereas upon the direction of the learned trial Court, a Local Commissioner was appointed who had submitted demarcation report (Ex.CX/Annexure A3) as per which there are no poplar trees existing in khasra Nos.328-329 owned by the plaintiffs; rather there are 37 trees standing in khasra No.355/2 which belong to the defendant. Admittedly, the said report dated 16.03.2018 (Ex.CX) was prepared in the presence of both the parties. This fact is also recorded in the orders of the learned Courts below. Resultantly the standing trees belong to the owner of the land and not to the person by whom they are planted. In the present case, it is found that the trees stand on the khasra No.355/2 which admittedly belongs to the Gram Panchayat. It is well-established in law that objections filed by the plaintiffs to the report of the Local Commissioner appointed by the Court are not maintainable. The learned First Appellate Court further correctly held that if the plaintiffs had objections to the report of Local Commissioner it was under obligation to produce the Local Commissioner in Court and establish his objections. However, the plaintiffs had not done so. In this view of the matter, there can be no issue with the demarcation report (Ex.CX).

11. In view of the above, present appeal is **dismissed**.
12. Pending application(s) if any also stand(s) disposed of.

23.01.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No