

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

211

RSA-2017-2000

Date of Decision: 16.01.2025

STATE OF PUNJAB

THROUGH COLLECTOR AND OTHERS

.....Appellants

Vs.

SUKHDEV SINGH

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Surya Kumar, AAG, Punjab, for the appellants.

None for the respondent.

DEEPAK GUPTA, J.

Suit for possession with consequential relief of permanent injunction with regard to the suit property filed by the plaintiff-Sukhdev Singh (*respondent herein*) was partly decreed by the trial Court vide judgment dated 31.01.2000, inasmuch as though the relief of possession was granted, but defendants were given time to remove the trees planted by them on the suit property belonging to plaintiff. In the appeal filed by the plaintiff, the Appellate Court vide judgment dated 29.02.2000, decreed the suit in toto. Now, defendants have approached this Court by way of present Regular Second Appeal.

2. According to plaintiff, he is co-sharer in the total land measuring 589 kanal 1 marla situated in the revenue estate of Village Gobindpura; and is in exclusive possession of land measuring 15 kanals 7 marlas comprised in Khasra No. 129//9 (7-16), 10 (5-4) and 13/1(2-7). Towards the Southern side of the said property in his possession, a canal minor runs from East to West. It was alleged that defendants had taken forcible and illegal possession of disputed land to the extent of 1 kanals 7 marlas adjoining to the canal minor, about which plaintiff came to know



after getting the same demarcated. It was further claimed by the plaintiff that some old shisham and kikar trees are existing on the disputed land, which the defendants were bent upon to uproot and remove without having any right.

3. Defendants contested the suit by denying any encroachment. They further pleaded that trees claimed by the plaintiff belonged to canal/forest department of the State of Punjab and so, plaintiff did not have any concern with the same.

4. Necessary issues were framed. Evidence produced by the parties was taken on record. The trial Court found that defendants had illegally encroached upon the disputed land measuring 1 kanal 7 marla, out of Khasra No.129//9 (7-16), 10 (5-4) and 13/1(2-7) belonging to the plaintiff, along with canal minor up to the width of 2 karams. It was also found by the trial court that 11 old shisham and kikar trees were standing in the said land. The trial Court decreed claim of the plaintiff for possession of suit land but held that 11 trees standing on the land were planted and maintained by the defendants and so, granted them time of 03 months to cut and remove the said trees.

5. Defendants did not file any appeal before the First Appellate Court regarding the decree of the possession passed against them.

6. It is the plaintiff, who challenged the finding of the trial Court, whereby defendants had been given time to cut and remove the trees. It was claimed by the plaintiff that ownership of the trees standing on the land owned by him will go along with the land and as such, defendants could not be given time to cut and remove the same. The said plea found favour with the Appellate Court, which accepted the appeal and decreed the suit in toto.



7. Assailing the abovesaid finding by way of present appeal, it is contended by learned counsel for the appellants-defendants that since 11 trees were planted and maintained by the Forest Department of the appellants, therefore the trial Court had rightly granted them time to cut and remove the same.

8. After hearing learned counsel, this Court does not find any merit in the contention raised by learned counsel for the appellants.

9. It has not been disputed that suit land, on which the trees have been planted belongs to the plaintiff-respondent. The finding of the trial Court to the effect that defendants had encroached upon suit land to the extent of 01 kanal 7 marla, has been upheld by the Appellate Court and the said finding has not been challenged by the defendants – appellants either before the First Appellate Court or before this Court. In case a person plants and maintains trees on the land of other, such a person cannot claim any right, title or interest over those trees. Learned First Appellate Court has rightly held that as per the established rule of law, the ownership of the trees or even the buildings standing thereon will go with the ownership of the land. Once it has been found that plaintiff-respondent is the owner of the land in dispute, over which the trees are standing, defendants-appellants cannot claim any right to cut and remove the same.

10. As such, this Court does not find any reason to interfere in the judgment dated 29.02.2000 passed by the First Appellate Court. Holding the present appeal to be devoid of any merit, the same is hereby dismissed.

16.01.2025

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**(DEEPAK GUPTA)
JUDGE**

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