



IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH

118

**RSA-1645-2022 (O&M)
Date of decision: 18.03.2025**

Naib Singh and another

...Appellant(s)

Vs.

Darbara Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. G.S.Punia, Sr. Advocate with
Mr. P.S.Sullar, Advocate for the appellants.

NIDHI GUPTA, J.

The appellants before this Court are defendant No. 2(ii) and defendant No.3 in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit of the plaintiffs for permanent injunction, has been decreed by both the Courts below.

2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellants are the 'defendant No.2(ii) and defendant No.3'; and the respondents No. 1 and 2 are the 'plaintiffs'.

4. Brief facts of the case as stated in the plaint are that the plaintiffs had filed a suit seeking a decree for permanent injunction restraining defendants No.1 to 3 from interfering into the ownership and possession of the plaintiffs as co-sharers in respect of land measuring 18 kanal 3 marlas comprised in Sq. No.89 killa No.8/6(0-4), 8/15/4(0-8), sq.No.90 killa No.13/1(5-3), khasra No.395(4-0), khasra No.397(8-8) vide jamabandi for



the year 2012-13 and mutation No.3589 sanctioned on 19.12.2014 situated in village Kurangawali, Tehsil and Distt. Sirsa, as fully detailed and described in the head note of the plaint/ hereinafter 'suit property'; and the defendants be also restrained from doing any other act which may amount to interference into the peaceful possession of the plaintiffs in any way whatsoever with the help of defendant No.4. It was further pleaded in the plaint that defendants No. 1 to 3 are head strong persons and land grabbers; they are neither owners nor in possession of the suit property but are threatening the plaintiffs to snatch forcible possession of the suit property pursuant to which defendant No.4/SHO Police Station Rori, District Sirsa had called the plaintiffs to the Police Station and forcibly got written from them that they would not cultivate 5 kanals and 3 marlas of land and would allow the defendants to cultivate the same; Panchayat was also convened in the matter; plaintiffs requested defendants No.1 to 3 not to interfere however to no avail. Hence, the present suit.

5. Upon notice, defendants No.1 to 3 appeared and filed joint written statement resisting the suit by *inter alia* submitting that the plaintiffs had nothing to do with the suit land. Possession of the plaintiffs of the suit land was denied. It was further stated that Will No.148 dated 26.12.1967 executed by Shama Singh is under challenge in the civil suit filed by defendants. The plaintiffs have no possession over the suit property, therefore, question of their dispossession does not arise. Rest of the facts mentioned in the plaint were denied and dismissal of suit was prayed for.

6. No replication was filed.

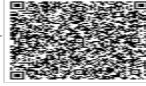


7. From the pleadings of the parties, following issues were framed on 05.11.2015:-

- “1. Whether the plaintiff is entitled for relief of permanent injunction on the ground as averred in the plaint? OPP
2. Whether suit of the plaintiff is not maintainable in the present form?OPD
3. Whether the plaintiff has no cause of action and locus standi to file the present suit? OPD
4. Whether the plaintiff has not come to the court with clean hand and has concealed the true and material facts? OPD
5. Whether the suit of the plaintiff is false and frivolous? OPD
6. Relief.”

8. Upon appraisal of the pleadings and the evidence led by the parties, the Id. trial Court decided issue No. 1 in favour of the plaintiffs and against the defendants; issues No.2 to 5 were not pressed during evidence or arguments. As such, all these issues were deemed to be given up consequentially vide judgment and decree dated 18.11.2017, the learned trial Court decreed the suit of the plaintiffs with costs. The appeal filed by the present appellants i.e. defendant No.2(ii) and defendant No.3 was also dismissed with costs by learned Additional District Judge, Sirsa vide judgment and decree dated 26.10.2021, thereby affirming the judgment and decree of the learned trial Court. Hence, the present second appeal.

9. Learned Senior counsel appearing on behalf of the appellants *inter alia* submits that judgments and decrees of the learned Courts below are liable to be set aside as the learned trial Court has ignored the statement of PW1 Balkaran Singh who, while deposing in the Court admitted in the cross examination that suit titled as ‘Gurdev Singh etc. Vs.



Gurdev Singh regarding suit land is pending in the Court of Civil Judge, Jr. Div. Sirsa which has been filed by the defendants. He admitted that Will allegedly executed by Shama is under challenge in Civil Court. He further admitted that Shama died issueless and his wife predeceased him and he his three brothers also predeceased him and also admitted that land inherited by Shama, has been inherited by him from his father and grand father. PW2 Gurmel Singh simply denied that he was not aware of any other case regarding suit land is pending before any other Court and also denied that he was not aware as to who is in possession of the Rct. No.90 Killa No. 13/1.

10. Learned Senior counsel for the appellants further submits that Jagjit Singh defendant/DW1 specifically stated that they are owners in physical possession of land Rect. No.90 Killa No.13/1 and have been in possession for the last 18-19 years. This evidence has not been reverted by the plaintiffs. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

11. No other argument is raised on behalf of the appellants.

12. I have heard learned counsel for the appellants and perused the case file in great detail.

13. I find no merit in the arguments advanced by learned Senior counsel for the appellants. It has been rightly observed by the learned lower appellate Court that pendency of any civil suit regarding part of suit property will not have any bearing upon the present matter as the said civil suit will be decided on its own merits in due course. Therefore, it has



been correctly held that “*the defendants cannot derive any benefit at this stage by stating about anticipated judgment in their favour.*”

14. It has further been concurrently held by both the Courts below that the defendants had failed to prove their possession over the suit land. The plaintiff No.2/PW1 Balkaran Singh and PW2 Gurmel Singh have produced jamabandi for the year 2012-13(Ex.P1/Ex.P3) and mutation No. 3589 (Ex.P2) from which it is proved that predecessor of the plaintiffs and thereafter, the plaintiffs have been co-sharers in the suit property. Needless to say, there is presumption of truth attached to the revenue record. No documentary evidence or revenue record was produced by the defendants to counter the above. Defendants have failed to establish any authority or title where from they are in possession of the suit property. Documents (Ex. D1 and Ex.D2) are the certified copies of order and decree dated 11.03.1986 in case titled as ‘*Dalbara Singh vs. Chanda Singh*’ are not in favour of the defendants and as such are inconsequential to their cause.

20. In view of the above, no ground to interfere in the impugned judgments and decrees of the learned Courts below is made out. The present regular second appeal is hereby **dismissed**.

21. Pending applications, if any, stand disposed of.

18.03.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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