
(2012) 03 P&H CK 0342

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 2147 of 1988

Kishore Lal and others

APPELLANT

Vs

Jas Pal and others

RESPONDENT

Date of Decision : 27-03-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100

Citation : (2012) 03 P&H CK 0342

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Alok Singh, J.—Plaintiffs-appellants has approached this Court by way of second appeal filed u/s 100 of CPC challenging the judgment and decree dated 05.05.1988, passed by Additional District Judge, Gurdaspur, thereby allowing the first appeal filed by the defendants (respondents herein) setting aside the judgment and decree passed by the trial court and ultimately dismissing the suit of the plaintiffs-appellants. Brief facts giving rise to the present appeal are that plaintiffs have filed original suit seeking permanent prohibitory injunction restraining defendants from cutting, removing or alienating the peepal tree marked by letter "X" on the plan attached with the plaint, standing in a plot shown by letters ABCDEF on the said plan.

2. Learned First Appellate Court in the impugned judgment has recorded categorical finding that Sant Ram, Bhag Mal and Hakam Rai had filed Suit No. 1083 on 19.12.1993 for possession of plot. The boundaries of which are the same on the question as of the plot now in suit against Faqir, Mohinder, Gulam Sadiq and Chandu Lal; Sub-Judge 1st Class, Gurdaspur was pleased to decree the suit vide judgment and decree dated 15.03.1915, copy Ex. D-1; defendants are successful in proving that Sant Ram etc. were their ancestors; peepal tree undisputedly is standing on the plot in question and the same plot was subject matter of the earlier suit which was decreed vide judgment dated 15.03.1915,

therefore, defendants being the owners of the plot, pursuant to the judgment and decree dated 15.03.1915, could use the same in any manner they liked and plaintiffs had no right to restrain them from doing so. It has further been observed by the learned First Appellate Court that plaintiffs are migrants from Pakistan. It has further been observed by the First Appellate Court that plaintiffs could not prove any enforceable, legal, easmentary or customary rights to worship the peepal tree standing on the property of the defendants.

3. Having perused the record, I am satisfied that finding as recorded by the learned First Appellate Court, as discussed hereinabove, is on the basis of evidence, available on the record, and as such finding cannot be said to be perverse or illegal.

4. Plaintiffs seeking permanent prohibitory injunction have to prove their possession title or any enforceable, legal, easmentary or customary rights over the property in dispute in which plaintiffs were not successful in proving. In the facts and circumstances of the case, no substantial question of law arises for consideration of this Court and, therefore, no interference is required, in the absence of any substantial question of law, in the impugned judgment passed by the First Appellate Court. Therefore, no interference is called for. Appeal is devoid of merit, hence is dismissed.