
(2007) 03 P&H CK 0072
In the Punjab And Haryana At Chandigarh

Puran and Others	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 15-03-2007

Acts Referred:

Citation : (2007) 3 CivCC 278 : (2007) 147 PLR 681 : (2007) 3 RCR(Civil) 3

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vinod K. Sharma, J.—Present appeal has been filed against the judgment and decree passed by the learned Additional District Judge, Karnal reversing the judgment and decree passed by the learned trial Court.

2. The plaintiff-appellants had claimed a decree for permanent injunction against the State claiming themselves to be the owners in possession as co-sharers of land measuring 12 kanals. It was further claimed that the plaintiff-appellants were in peaceful and continuous possession of the suit land for the last 30 years and further Khasra Girdawari entries since 1990 are in their favour.

3. Learned lower appellate Court has recorded a positive finding of fact that the land belongs to the State and the claim of the appellants that they were in possession could not be accepted merely on the basis of three stray entries in the Khasra Girdawari which were not incorporated in the Jamabandis. No Jamabandi showing the possession of the appellants was placed on record. Furthermore, the nature of the land recorded in Jamabandi was gair mumkin nadi. In view of this, learned lower appellate Court has reversed the finding recorded by the learned trial Court which was based merely on the statement of DW-1 wherein he has stated that the plaintiffs were in possession of the land in suit.

4. Learned Counsel for the appellants relied on the judgment of Hon'ble Supreme Court in Rame Gowda (D) by Lrs. Vs. M. Varadappa Naidu (D) by Lrs.

and Another, to contend that even a trespasser is entitled to injunction against the true owner. I have gone through the judgment and find that in the said case settled possession of the parties for a sufficiently long period was proved on record. However, in the present case, the finding of fact recorded is that the appellants were not in possession of the property in dispute.

No question of law much less substantial question of law arises for consideration in this appeal.

Dismissed.