

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

CSA No. 29/2009
CMA No. 35/2009

Date of Decision:19.10.2012

Hans Raj & ors. Vs. **Sham Singh & ors.**

CORAM:

Mr. JUSTICE J. P. SINGH.

Appearing Counsel:

For Appellant(s) : Mr. Ved Raj Wazir, Sr. Advocate with
Mr. Amit Chopra, Advocate.
For Respondent(s) : Mr. N. P. Kotwal, Advocate.

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| i) | Whether approved for reporting
in Press/Media | : | Yes/No |
| ii) | Whether to be reported
in Digest/Journal | : | Yes/No |
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This Civil Second Appeal is directed against the Decree and Judgment dated 09.06.2009 of Additional District Judge, Doda whereby dismissal of appellants' Suit for Declaration and Permanent Prohibitory Injunction claiming title to and restraint directions regarding land measuring 18 Marlas comprised in Khasra No. 1099/509 with Shed constructed thereon and land measuring 10 Marlas comprised in Khasra No. 1102/509 situated at Thatri, was upheld.

The Decrees of the two Courts concurrently holding that the appellants' had failed to produce any evidence to establish their title to the land, which, on the other hand, was found State land on the basis of

Revenue Records, are questioned on the ground that the evidence led by the appellants was not properly appreciated and the Ist Appellate Court had erred in following the provisions of *Order 41 Rule 31 of the Code of Civil Procedure* while dealing with the Appeal.

Heard learned counsel for the parties and considered their submissions.

In view of the material available on records of the Trial Court indicating that the land in question was recorded as State land in the Revenue Records and the failure of the appellants to produce any documentary evidence to prove their title thereto, the learned Senior counsel appearing for the appellants, while not disputing the concurrent findings of the two Courts that the property in question was State land, submitted that having been found in possession of the land in question, the appellants were entitled to protection against threatened interference into their possession by the respondents, regardless of the fact that they were not owners of the property, which relief was erroneously denied to them by the two Courts.

The issue raised by the appellants' learned counsel that the appellants were entitled to decree for Permanent Prohibitory Injunction against the defendants on the basis of their possession over the

Suit land, does not raise any question of law muchless a substantial question of law warranting admission of the Appeal to hearing, for, Injunctive Decrees regarding immoveable properties may not be conceived in a Suit between two unauthorized occupants when the actual owner thereof, particularly the State, was not a party thereto.

No case for admission of the Appeal is made out.

This Civil Second Appeal is, accordingly, dismissed.

(J. P. Singh)
Judge

JAMMU

Sunita.

19.10.2012