

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CMPMO No. 324 of 2014.

Decided on: 30.6.2015.

Kuldeep Singh

.....Petitioner.

Versus

Pinja Ram & ors.

.....Respondents.

Coram

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for reporting? ¹. No.

For the petitioner: Mr. Surinder Saklani, Advocate.

For the respondents: Mr. Ajay Sharma, Advocate, for respondent No. 1.

Justice Rajiv Sharma, J.

This petition is instituted against the order dated 31.8.2013, rendered by the learned Addl. District Judge (1), Kangra at Dharamshala, in CMA (RBT) No. 19/J/XIV/2011.

2. Key facts, necessary for the adjudication of this petition are that the petitioners-plaintiffs (hereinafter referred to as the plaintiffs) had instituted a civil suit alongwith the application under Order 39 Rules 1 & 2 CPC with regard to the land comprised as detailed in the plaint, situated in Mohal Purkher, Mauza Nadoli, Tehsil Jawali, Distt. Kangra, H.P., as per Jamabandi for the year 2006-07, seeking to restrain respondent-defendant (hereinafter referred to as the defendant), who was stated to be co-owner of the suit land from alienating the suit land, till the disposal of the suit.

3. The suit was contested by the defendant. On merits, it was averred that he was alone owner-in-possession of the land as per the revenue record. It was denied that the suit land was ancestral property.

¹ Whether reporters of the local papers may be allowed to see the judgment?

The defendant has also filed separate reply to the application filed under Order 39 Rules 1 & 2 CPC.

4. The learned Civil Judge (Jr. Divn.), Jawali, Distt. Kangra, H.P. dismissed the application on 28.9.2010. One of the plaintiffs', namely Kuldeep Singh filed an appeal against the order dated 28.9.2010 before the learned Addl. District Judge, Kangra at Dharamshala. The learned Addl. District Judge, Kangra at Dharamshala dismissed the same on 31.8.2013. Hence, this petition.

5. I have heard learned counsel for the parties and gone through the impugned order dated 31.8.2013, carefully.

6. The defendant has denied the ownership and possession of the plaintiffs. He was sole owner-in-possession of the suit land. It is evident from the copy of jamabandi for the year 2006-07 that the defendant was shown as owner-in-possession of the suit land in Khata No. 5 and also owner-in-possession alongwith the co-sharers in Khata No.

7. The plaintiffs have not led any tangible evidence to establish that the suit property was ancestral property and the defendant could not alienate the same. There is neither any perversity nor illegality in the orders passed by both the Courts below.

7. Consequently, there is no merit in this petition, the same is dismissed.

June 30, 2015,
(karan)

(Rajiv Sharma),
Judge.