

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2674/2010

BAKSHISH SINGH (DEAD) TH. LRS. APPELLANT(S)

VERSUS

SOMA DEVI & ORS. RESPONDENT(S)

WITH

CONMT.PET.(C) No. 606/2020 in C.A. No. 2674/2010

ORDER

This Civil Appeal takes exception to the order dated 15.07.2008 passed by the High Court of Himachal Pradesh allowing Regular Second Appeal No.194 of 1997.

The Second Appeal arose out of Civil Suit No.106 of 1988, which was filed by the respondent in the Court of Sub-Judge, 1st Class, Una.

The issues framed by the Trial Court in said suit indicate that the defence taken by the present appellant was that the appellant was tenant on the land and in the alternative, that he had perfected his title by adverse possession.

The Trial Court decreed the suit by its judgment and decree dated 31.10.1992 and the operative part was as under:

“In view of my discussion on the issues above, the suit of the plaintiff is decreed and a decree for possession by removal of super-structure if any over the said land is hereby passed in favour of the plaintiff and against the defendant. Parties are left to bear their own costs. A decree sheet be prepared and file after completion, be consigned to the records”.

The judgment passed by the trial court was challenged by the appellant by filing Civil Appeal No.181 of 1992 in the Court of District Judge, Una which by its judgment and order dated 04.07.1997 allowed the appeal and dismissed the suit.

The matter was carried further by filing RSA No.194 of 1997 by the respondent herein. The High Court allowed the Second Appeal by its judgment and order which is presently under challenge and concluded as under:

“On the first two questions, the findings of the learned District Judge can be described as conjectural. Mere possession for a long period of time does not mature into adverse possession. The necessary ingredients have not been established on the record of the case. The claim of the defendant was one of tenancy and in the alternative of adverse possession. On both pleas, his case was negated by the learned trial court and rightly so as presumption of truth is attached to the revenue record. There is no evidence on the record to show or suggest that the defendant or his predecessor-in-interest were ever recorded as a tenant on the suit land or there was payment of rent by the defendant or his predecessor in interest which would establish his ownership on the land. It is by now well settled that long standing revenue entries can be used for collateral purposes for finding out the nature of the possession. The possession of the plaintiff having been established, the evidence of the three defence witnesses cannot be relied upon as it is contrary to the revenue record. Both these questions are answered in favour of the appellant.

To say that findings of the learned District Judge are perverse would be stating the obvious. He has not made any attempt to look into the revenue record to ascertain the nature of possession but has been swayed merely by the oral testimony of the witnesses of the defendant.”

In this appeal, we have heard learned counsel for the parties and with their assistance, we have gone through the record. We are satisfied that the conclusions drawn by the High Court are justified and do not call for any interference.

In the premises, this civil appeal is dismissed without any order as to costs.

In view of the dismissal of the civil appeal, no orders are called for in the application for initiation of contempt. The Contempt Petition is closed.

.....J.
[Uday Umesh Lalit]

.....J.
[Vineet Saran]

.....J.
[S. Ravindra Bhat]

New Delhi;
26th November, 2020.

