

**REPORTABLE**

**IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER**

**Appeal Decree/TA/2266/2014/Hanumangarh.**

Devender Singh son of Kaur Singh caste Jat Sikh resident of  
village Chhattaina, Tehsil Gidarbha, Distt. Muktsar (Punjab)

...Appellant.

Versus

1. Shvinder Kaur wife of Gurtej Singh caste Jatsikh resident of  
Nawaan, Tehsil and Distt. Hanumangarh.
2. State of Rajasthan through Tehsildar, Hanumangarh.

...Respondents.

**D.B.**

**Shri Bajrang Lal Sharma, Member  
Shri Priyavrat Pandya, Member**

**Present:-**

Shri Rajender Singh Brar, , counsel for the appellant.

-----

Date: 07.5.2014

**J U D G M E N T**

The appellant has filed this second appeal under section 225 of the Rajasthan Tenancy Act, 1955 (in short 'the Act') being aggrieved by the judgment passed by Revenue Appellate Authority, Hanumangarh on 20.3.2014 in appeal No. 35/2014.

2. The factual matrix of the case in hand is that Shavinder Kaur, the respondent No.1, filed a regular suit under section 88 and 188 of the Act against the appellant-defendant in the court of Assistant Collector, Hanumangarh. During adjudication of the suit, an application under Order 7 Rule 11 of the Civil Procedure Code was filed before the trial court by the defendant which was accepted by the trial court on 21.2.2014 and consequently the plaint filed by the plaintiff was rejected. Being aggrieved by the judgment passed on 21.2.2014, an appeal was preferred by Shavinder Kaur, respondent No.1, before Revenue Appellate

Authority, Hanumangarh which was accepted on 20.3.2014. This appeal under section 225 of the Act has emanated from the judgment passed by Revenue Appellate Authority, Hanumangarh on 20.3.2014.

3. Heard the learned counsel for the appellant on admission of the appeal.

4. Mr. Rajender Singh Brar, learned counsel for the appellant contended that the impugned judgment passed by the appellate court is illegal, capricious and against the established principles of law. He submitted that the judgment passed by the trial court on 21.2.2014 was in accordance with the legal provisions and did not require any interference at the level of appellate court. He argued that no suit on the basis of any agreement to sale can survive before the trial court but the learned appellate court has exercised its jurisdiction in an unjust manner. The learned advocate finally urged that the Shavinder Kaur, the plaintiff, has sought the relief of declaration of tenancy rights and perpetual injunction against a recorded co-tenant on the basis of adverse possession and unregistered document which cannot be granted by the trial court. In such circumstances the second appeal be admitted and the impugned judgment passed by the appellate court be stayed.

5. We have given thoughtful consideration to the contentions raised by the learned counsel for the appellant and have perused the record available on file.

6. Indisputably Shavinder Kaur, respondent No.1-plaintiff, filed a regular suit for declaration of tenancy rights and perpetual injunction before the trial court. This is also factually true that an agreement to sale dated 5.6.1989 has been mentioned as a document of consequence in the plaint and the plaintiff has also averred the ground of adverse possession. Bare perusal of the

judgment passed by the trial court on 21.2.2014 makes it manifestly clear that the trial court has observed that as per the Larger Bench judgment of the Board of Revenue no suit could be filed on the basis of adverse possession. The trial court has held that the plaintiff is not in possession of the disputed land for more than last twelve years. The issue of possession is a question of facts which could be ascertained by the appropriate evidence. It was unjust to decide such an issue at this initial stage.

7. Devender Singh, the appellant-defendant, filed an application under Order 7 Rule 11 of the Code of Civil Procedure before the trial court during adjudication of the suit filed by Shavinder Kaur, the plaintiff. In his application, Devender Singh mainly raised two objections on maintainability of the suit, his first objection was that the suit has been filed on the basis of a document of agreement to sale dated 5.6.1989 and secondly the suit seeks the relief of declaration of tenancy rights on the basis of adverse possession. And such a suit is not maintainable before the revenue court on these grounds. In this regard it is relevant to cite the provisions of Order 7 Rule 11 of the Code of Civil Procedure for convenient reference. the provisions of Order 7 Rule 11 Code of Civil Procedure is as under:-

**11. Rejection of plaint**-The plaint shall be rejected in the following cases:-

- (a) Where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the court, failed to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) Where it is not filed in duplicate;
- (f) Where the plaintiff fails to comply with the provisions of rule 9]"

A plaint can be rejected at any stage by a court of competent jurisdiction if it is hit by the conditions stated hereinabove. In the case in hand Shavinder Kaur filed a suit under section 88 and 188 of the Act. The plaint filed by the plaintiff contains explicit cause of action, it was duly stamped and it was not barred by any law and certainly it did not have any deficiency which could be the basis for rejection of the plaint under Order 7 Rule 11 of the Code of Civil Procedure.

8. Hon'ble Supreme Court in its judgment in case of T. Arvindam Vs. T.V. Satyapal (AIR 1977 (SC) 2421) has held that it is the duty of the court to reject a plaint which contains false and vexatious claims. Hon'ble Supreme Court has further observed that if the litigation is inspired by vexatious motives and is altogether groundless, the court should take deterrent action as per section 35-A of the Code of Civil Procedure. The Apex Court has cautioned the courts to take necessary steps to curb frivolous litigations in the very beginning. This court has studied the referred judgment by learned advocate for the appellant with great respect but the circumstances and facts of this case in hand are at a variance and do not match with the facts and circumstances of the referred judgment. In view of this court the trial court was not competent to reject the plaint filed by Shavinder Kaur under Order 7 Rule 11 of the Code of Civil Procedure. In this case Devender Singh, the appellant, should have filed the written statements and on the basis of written statements issues should have been framed in the case and if there is any legal issue which could have been decided by the court on priority but it was certainly not a case where the plaint could be rejected under Order 7 Rule 11 of the Code of Civil Procedure. The judgment of Larger Bench of the Board of Revenue cannot form a justifiable ground to reject a plaint under Order 7 Rule 11 of the Code of Civil Procedure.

9. As discussed hereinabove, this court is of the view that the judgment passed by the learned Revenue Appellate Authority does not suffer from any legal, jurisdictional or factual error. Therefore, this appeal under section 225 of the Act filed by the appellant is dismissed at the stage of admission. The trial court is directed to proceed further as per directions of the appellate court given in its judgment dated 20.3.2014. The trial court is further directed to dispose of the matter in next six months.

Pronounced.

(Priyavrat Pandya)  
Member

(Bajrang Lal Sharma)  
Member