

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1524 of 1988 (O&M)**Date of Decision: 07.01.2015**

Prithi Raj

. . . . Appellant

VS.

Sant Singh & Ors.

. . . . Respondents

CORAM: HONBLE MR.JUSTICE SURYA KANT

*1. Whether Reporters of local papers may be allowed to see the judgment?**2. To be referred to the Reporters or not?**3. Whether the judgment should be reported in the Digest?*

Present: Ms. Amandeep Kaur, Advocate

None for the respondents

SURYA KANT J. (ORAL)

(1). It is stated that Mr. PS Kang, Advocate who earlier represented the appellant has unfortunately passed away.

(2). At the asking of the Court, Ms. Amandeep Kaur, Advocate accepts notice on behalf of the appellant. No one appears on behalf of the respondents today nor they are represented by any counsel on previous dates as well. I thus proceed to decide the appeal on merits.

(3). The appellant filed a suit for possession of plot Mark EFBH out of the plot ABCD claiming himself to be the owner thereof from the times immemorial alleging that the respondent-defendants who had no concern whatsoever had forcibly and illegally taken the possession of the said plot.

(4). The respondents contested the suit maintaining that the plaintiff-appellant had no concern with the disputed plot as it was owned by one Ram Saran of their village and it remained in possession of Sant Singh for the last 20 years. They claimed that after the death of Ram Saran, his daughter Bhagto @ Sarabjeet Kaur inherited the subject plot and other properties of Ram Saran and sold the said plot to the first respondent for consideration of Rs.99/- vide sale deed dated 29.06.1983 which was duly witnessed by the marginal witnesses.

(5). Learned counsel for the appellant asserted that the subject property was owned by his father Ram Pratap and that after the death of grandfather Radha Kishan, the plot in dispute was inherited by Ram Pratap and Amar Nath. It was further asserted that on the death of Ram Pratap and Amar Nath, the property was partitioned between appellant and Satpal s/o Amar Nath.

(6). The trial court formulated the issues, namely, as to whether the plaintiff is owner in possession of the suit land and on consideration of oral and documentary evidence, it rejected the appellant's claim. It was held that the alleged partition could not be proved by the appellant. There was yet another finding of fact with regard to the location and identity of the plot. The trial court also accepted the plea taken by the respondents that the plot in dispute was purchased by them for consideration from the daughter of Ram Saran vide sale deed Ex.D1.

(7). The First Appellate Court also declined to interfere in the finding of fact observing that location of the disputed plot itself tends to falsify the claim of the appellant and that his testimony does not inspire any confidence. The alleged partition between him and his brother Amar Nath could not be proved. Contrarily, the respondents successfully proved their lawful entry over the said plot on the basis of sale deed Ex.D1 executed by daughter of Ram Saran.

(8). As may be seen from the findings returned by the Courts below all the questions raised by the parties are essentially the questions of fact which have been determined concurrently on appreciation of the oral and documentary evidence. The contentions raised by learned counsel for the appellant or the pleas taken in grounds of appeal do not give rise to any substantial question of law warranting interference by this Court.

(9). Dismissed.

07.01.2015
vishal shonkar

(Surya Kant)
Judge