

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

1. RSA No.4690 of 2009 (O&M)  
Date of decision : 02.11.2015

Ashok Kumar and another

...Appellants

Versus

Lakhpat Rai

...Respondent

2. RSA No.2774 of 2010 (O&M)  
Date of decision : 02.11.2015

Ashok Kumar and another

...Appellants

Versus

Lakhpat Rai and ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

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

Present: Mr. Kanwaljit Singh, Sr. Advocate with  
Mr. B.B.S. Randhawa, Advocate for appellants.

Mr. A.K. Chopra, Sr. Advocate with  
Mr. G.S. Bhandal, Advocate for respondents.

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**AMIT RAWAL, J. (Oral)**

This order of mine shall dispose of two RSAs bearing No.4690

of 2009 titled as Ashok Kumar and another Vs. Lakhpat Rai and RSA No.2774 of 2010 titled as Ashok Kumar and another Vs. Lakhpat Rai and others.

Challenge in the present appeals is to the concurrent findings of fact, whereby suit for possession in respect of vacant plot on which 5 shops stated to have been constructed, has been decreed.

Mr. Kanwaljit Singh, learned Senior Counsel assisted by Mr. B.B.S. Randhawa, Advocate for appellants submits, that though the property stood in the name of Lakhpat Rai vide sale deed dated 11.03.1970, but there was exchange, which had taken place between Lakhpat Rai and Banwari Lal since deceased. The appellants are none else but the sons of Banwari Lal who stated to have died in 1983. The respondent-plaintiff is in possession of the other property also and, therefore, suit for possession was not maintainable as it had fallen to their share as per the exchange.

He submits that this aspect has not been taken into consideration by both the Courts below. Thus, there is illegality and perversity, much less, substantial question of law arises for determination.

Mr. A.K. Chopra, learned Senior Counsel assisted by Mr. G.S. Bhandal, learned counsel appearing on behalf of respondent-plaintiff has drawn attention of this Court to the order dated 11.03.2010 passed by this Court, whereby notice of motion vis-a-vis settlement was issued. He further submits that this Court in the order dated 05.04.2013 noticed that pursuant to the judgment and decree passed by Courts below, possession of the property in dispute had been taken. He further submits that appellants-defendants have not been able to put case, much less, there is no reflection

in the revenue record.

I have heard learned counsel for the parties and appraised the paper book.

Shorn of the facts noticed above are that it is essential and necessary for the parties to prove their particular document who asserts. The alleged exchange has not seen the light of the day, much less, not been reflected in the revenue record. Concededly, the sale deed of the property in dispute is in favour of Lakhpat Rai. Since appellants-defendants were in possession of the property, the suit in the year 1999 for possession of the same was filed. Both the Courts below on the basis of the oral and documentary evidence found that Lakhpat Rai-respondent-plaintiff was the owner of the property and raised five shops thereon and appellants-defendants were in unauthorised possession of the same. Since, the possession of the property had been taken wayback in the year 2013, in my view no cause of action survives, much less, both the Courts below have rendered a findings of fact based upon appreciation of oral and documentary evidence on record.

I do not intend to differ with the same. There is no illegality and perversity, much less, no substantial question of law arises for determination.

Appeals are dismissed.

**02.11.2015**

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**(AMIT RAWAL)  
JUDGE**