

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

Regular Second Appeal No.3917 of 2010 (O&M)

Date of decision: 20.4.2015

Mohinder Kaur

... Appellant

Versus

Pritam Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Ashok Jindal, Advocate,
for the appellant.

Mr.R.N.Singal, Advocate,
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

This is plaintiff's second appeal having lost in both the Courts below. The plaintiff brought a suit for declaration to the effect that he is owner in possession of the suit land measuring 64K-11M falling in the revenue estate of village Bhaini, Tehsil and District Bathinda and to protect his peaceful cultivating possession over the corpus for the last more than 30 years and that it should not be disturbed unlawfully. However, no document of title was produced in support of the declaration and instead, a plea of adverse possession was set up by the plaintiff to claim ownership over the corpus being open, hostile and continuous and uninterrupted, that too,

without payment of *batai* to the knowledge of the defendants. Thus, it was asserted that the plaintiff has become owner of the suit land by way of adverse possession.

It is by now well settled that adverse possession is a plea in defence which cannot form basis of a claim to title in the land by a plaintiff. It is equally well settled that mere non-payment of rent will not put to an end to the relationship of landlord and tenant so as to declare possession to be open and hostile to the right, title and interest of the true owner. A plea of ownership and of adverse possession cannot co-exist. No other point was pressed. No question of law arises in this appeal, much less a substantial question of law.

The appeal to stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

April 20, 2015
Paritosh Kumar