

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

RSA No. 1475 of 2012 (O&M)

Date of decision : 27.11.2015

Gian Kaur and others

... Appellants

versus

Smt. Kaushalya Devi and another

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Deepak Sharma, Advocate, for the appellants.

Rajesh Bindal, J.

The defendants are before this Court against concurrent findings of fact recorded by both the Courts below whereby the suit filed by the plaintiffs for permanent injunction, was decreed.

Brief facts of the case are that the plaintiffs filed a suit for permanent injunction restraining the defendants from encroaching upon or taking forcible possession of the house now converted into a *khola* or any portion of it or closing the passage as shown in the site plan relied upon by them. It was stated that mother of plaintiff no.1, Smt. Lilawanti was allotted residential house by the Rehabilitation Department in the village bearing no.13 in the record of custodian. During her lifetime she executed Will dated 1.8.1990 qua house and other properties in favour of plaintiff no.1 and her sister Damyanti, whereas claim of defendants was that defendant no.1 was in possession of the property in question since the year 1956. The defendants were using the suit property for tethering cattles and storing agricultural equipments. Hence, they had become its owners by way of adverse possession. The property in dispute was allotted to Smt. Lilawanti mother of plaintiff no.1. DW3 Rajbir Singh admitted that Smt. Leelawanti was having agricultural land and residential house, which were allotted to her in the village. He also admitted that she resided in the village. It was stated by him that she was residing in the fields where she was having her

house. The allegations were not denied by the defendants as they did not file any written statement. Though Jaswant Singh died during pendency of the suit and his LRs were brought on record, but Mohinder Singh was alive. Mohinder Singh also did not appear in the witness box in support of his claim. Since the defendants had claimed adverse possession, it means they had admitted ownership of the plaintiffs. The learned Courts below have rightly granted them permanent injunction.

For the reasons mentioned above, I do not find that the findings recorded by the learned Courts below are perverse. No substantial question of law arises. The appeal is accordingly dismissed.

27.11.2015
vs

(Rajesh Bindal)
Judge