

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

RSA No. 5184 of 2012 (O&M)

Date of decision : 30.10.2015

Satnam Singh and another

... Appellants

versus

Sohan Singh and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Padam Jain, Advocate, for the appellants.

Rajesh Bindal, J.

The plaintiffs are in appeal against concurrent findings of fact recorded by both the Courts below whereby the suit filed by them for permanent injunction was dismissed.

In the case in hand, the plaintiff filed the suit for permanent injunction with the plea that Nihal Shah Faquir was in possession of Shumar No.20, Ahata No.20 and is recorded as such in Field Book Bandobast of the year 1934 (B.K.). After said Nihal Shah Faquir, Surain Singh, grand father of the plaintiffs came into possession of said Shumar and Ahata and constructed katcha house in the said property. 2½ marlas of land was left open in front of the house, on the western side of the house, for placing carts, etc. as well as tethering the cattle. They have no other passage to use the property in dispute except the rasta shown in the site plan attached with the plaint. In September, 2002, the defendants tried to take forcible and illegal possession on the part of the plot on the western side. In this connection, proceedings under Sections 107/151 Cr.P.C. were initiated against the plaintiffs at the instance of the defendants. No construction has been raised by the defendants over the suit property. Both the Courts below did not find favour with the evidence of the plaintiffs and dismissed the suit.

The dispute is regarding 2½ marlas of land. The appellants failed to establish that the aforesaid 2½ marlas of land is part and parcel of

Shumar No.20 and Ahata No.20 and they were in its possession as owner on the date of filing of the suit. As per cross-examination of PW Paramjit Singh, Field Kanungo, consolidation in village Dhaliwal Bet took place in the year 1957. However, no record in this regard was brought on the file by any of the parties, which was necessary to adjudicate the point in controversy effectively. The statements of the witnesses produced by the plaintiffs do not support the case of the plaintiffs.

Nothing has been pointed by learned counsel for the appellants, which has either been overlooked by the Courts below or misread, in reaching the conclusion.

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.

30.10.2015

vs

(Rajesh Bindal)
Judge