

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

RSA No.1557 of 2013 (O&M)  
Date of decision : 19.02.2015

Jagtar Singh and others

...Appellants

Versus

Neku

...Respondent

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

Present: Mr. Karanjit Singh, Advocate  
for the appellants.

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

**CM No.4172-C of 2013**

For the reasons stated in the application, which is duly supported by an affidavit, delay of 50 days in refiling the appeal is condoned.

The application stands disposed of.

**Main Case**

This Regular Second Appeal at the instance of appellants-defendants is against the judgment and decree dated 24.04.2009, whereby the suit for possession of the land measuring 3 Kanals bearing Rectangle No.48, Killa No.11 min, Khata Khatauni No.429/817 situated in Village Manj, Tehsil Ajnala, District Amritsar and claim of possession of land by demolishing the building constructed over the suit property has been dismissed against the respondent-plaintiff and the appeal filed by the

plaintiff against the same has been accepted and suit has been decreed in toto.

Mr. Karanjit Singh, learned counsel appearing on behalf of the appellants-defendants in support of his grounds of appeal submits that Lower Appellate Court has committed illegality and perversity in reversing the well-reasoned judgment and decree of the trial Court as the respondent-plaintiff has failed to prove the sale certificate and the trial Court on the basis of documentary evidence found that the property could not be in the name of the Central Government and Khasra Girdawri in respect of disputed land were also in favour of the appellants-defendants. He further submits that the suit of the respondent-plaintiff was time barred.

I am afraid the aforementioned argument of learned counsel for the appellants-defendants, sans merit, much less, do not cut an ice for the following reasons:-

DW2 Tasvir Singh son of Jarnail Singh admitted in cross-examination that as per Rapat Roznamcha, Neku was given the possession of the land in his presence, in pursuance to the sale certificate Ex.P3 dated 06.09.1993. The case set out by the respondent-plaintiff was that prior to filing of the suit which was filed in 2009, the appellants-defendants raised the construction of 4 rooms, 1 kitchen, 1 Varandah and also constructed boundary wall illegally as he did not have right or title, much less, interest in the construction.

The aforementioned averments of respondent-plaintiff qua the ownership and handing over the possession was admitted by DW2. The jamabandi Ex.P4 which is in respect of Khasra No.48//11 also proves that

the name of the respondent-plaintiff was reflected as owner in jamabandi for the year 1998-99. The conveyance dated 06.09.1993 has been proved on record as Ex.P5. On the contrary, appellants-defendants have not been able to prove the ownership in respect of the suit property and, therefore, they have rightly been held to be in illegal possession over the land in dispute.

The Lower Appellate Court after examining fact, much less, law discharge the obligation as per provision of Section 96 of the Code of Civil Procedure by referring to both the oral and documentary evidence while arriving at the fact and law.

There is no illegality and perversity to the evidence rendered by the lower Appellate Court while decreeing the suit of the respondent-plaintiff. The trial Court dismissed the suit only on the premise that sale certificate has been on record, whereas on the contrary, the respondent-plaintiff has proved the Conveyance deed dated 06.09.1993. This fact has been noted by the trial Court.

In view of what has been observed above, there is no illegality and perversity in the findings rendered by the lower Appellate Court.

No substantial question of law arises for adjudication of the present appeal.

Accordingly, the present appeal is dismissed.

**19.02.2015**

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**(AMIT RAWAL)  
JUDGE**