

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5082 of 2013(O&M)
Date of decision : December 8, 2015

Sohan Singh

..... Appellant

Versus

Ajaib Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Nakul Sharma, Advocate
for the appellant.

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

Amit Rawal, J (oral).
CM No.4445-C of 2014

This is an application for fixing an actual date of the appeal.

The application is allowed.

The appeal is taken on board.

RSA No. 5082 of 2013(O&M)

The appellant-defendant is in Regular Second Appeal against the concurrent finding of fact whereby the suit for possession in respect of land measuring 23 Kanals 2 Marlas has been decreed.

Learned counsel appearing on behalf of the appellant submits that as per Ex. D-8 it has been proved on record that the appellant-defendant was in long, continuous and un-interrupted possession. Both the courts below have non-suited the appellant-defendant on the premise that the document on the basis of which entry dated 20.4.1996 had been effected has not been placed on record, which is erroneous, for the reason, that the entry has not been challenged by the plaintiff and thus, prays that there is illegality and perversity in the impugned orders and a substantial question of law arise for determination by this court.

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

Once the defendants had set up a claim of adverse possession, the ownership of the respondent-plaintiff is admitted. In essence, the onus shifted upon the defendant to prove his adverse possession. In other words the plaintiff is not required to prove the ownership.

Except a solitary document Ex.D-8, no other corroborative evidence, much less direct and cogent evidence has come on record to show that the possession was animus possidendi, notorious, un-interrupted and to the knowledge of the whole world. In the absence of same, in my view, the appellant-defendant has not been able to prove the claim of ownership by invoking the provisions of Article 65 of the Limitation Act, 1963.

Keeping in view the aforementioned facts, I do not intend to differ with the finding rendered by both the courts below

which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

December 8, 2015
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