

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 3839 of 2015 (O&M)
Date of Decision : 03.12.2015

Kurshid Ram

....Appellant

Versus

Sohan Lal (deceased) and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Satbir Rathore, Advocate
for the appellant.

Surinder Gupta, J. (Oral)

Heard.

2. This is a Regular Second Appeal against judgment passed by the Civil Judge (Junior Division), Dasuya whereby suit filed by Sohan Lal seeking relief of permanent injunction to restrain the defendants from interfering or taking possession of the plot measuring 6 *marlas* shown as 'ABCD' in the site plan Ex. P-1, was decreed.

3. Case of plaintiff, in brief, is that he is absolute owner in exclusive possession of the disputed site and defendant, who has his house on western side of the disputed plot, is threatening to interfere in his possession. The defendant denied that plaintiff is absolute owner in possession of the suit property and also took the plea that suit property is bearing *khasra* number and he also has share in the same.

4. Relying on the statement of witnesses of plaintiff, draftsman examined by the defendant and testimony of defendant himself, learned Civil Judge (Junior Division) concluded that plaintiff is in possession of suit land and

restrained the defendant(s) from interfering in his possession. The judgment of Court below was affirmed by Ist Appellate Court.

5. Learned counsel for the appellant argues that as per sale certificate dated 11.03.1997, defendant-appellant is the owner of suit property. The Courts below have relied upon the testimony of plaintiff's witnesses while reaching the conclusion that he is in possession of suit property. The findings of Courts below are not based on documents on record or proper appreciation of evidence.

6. On perusal of judgment of learned Civil Judge (Junior Division), I find that the Court below has recorded finding regarding possession over the suit land on the basis of testimony of plaintiff and other witnesses examined by him. It has also taken note of the statement of DW-1 Parshotam Singh examined by the defendant(s) who had prepared the site plan and has stated that plaintiff is in possession of the disputed site. Reliance of the defendant-appellant was on the sale certificate dated 11.03.1997 but the title over suit property was not a subject for consideration or decision before the Court below.

7. Plaintiff has not claimed title over the suit property and the Courts below have not recorded any finding on his title. If the defendant-appellant owns the suit property or has got any share in the same, he has got separate and independent legal remedy to pursue his claim, as permitted under law.

8. On perusal of the paper-book and judgments of Courts below, I find no legal or factual infirmity therein calling

for any interference. No substantial question of law requiring determination arises in this appeal, which has not merit.

Dismissed.

December 03, 2015
jk

(SURINDER GUPTA)
JUDGE