

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1307 of 2014 (O&M)
Date of Decision.10.09.2015

Idrish and another

.....Appellants

Versus

Din Dayal and another

.....Respondents

Present: Mr. Ajay Ghanges, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. Delay of 62 days in filing the appeal is condoned.
2. The appeal is against the decree of dismissal and affirmation of the trial Court judgment by the Appellate Court in relation to a property said to be in *abadi deh*. The plaintiff was making assertion of his right over the property by contending that there was a *kutchha* shed over the property which he wanted to demolish and erect a new construction and had brought Draftsman to have the property measured and when he was beginning to construct, the defendants started obstructing and therefore, a suit for declaration and injunction was sought. The plaintiff was relying on certain photographs said to have been taken at the place where he was standing and it was admitted at the time of evidence that the photograph showed only the suit property. The defendant was contending that it was in his possession and a third party had filed the suit in respect of the very

same property and that suit was dismissed. The two Courts below observed that it is not possible to uphold title or possession of the property by looking into photographs and the evidence produced by the witnesses who stated that the plaintiff was in possession was not sufficient for convincing the Courts below to grant the decree.

3. Learned counsel appearing on behalf of the appellant states that the defendant had no property nearby and the suit property was confronted by public roads on three sides and on Western side, the plaintiff's house was there and he used the property for tethering his cattle and storing stones and debris. The defendant had no property anywhere in the proximity to the suit property and it was not possible to have any document of title in respect of property in *abadi deh*.

4. I have seen the photographs also. The counsel claims that the plaintiff is standing by the side of cattle tethered in the suit property. It will be too risky to rely on photographs where a person stands for granting decree. Any person can stand at public place, take photograph and the property cannot become his. The manner of proof of title in the Civil Court to obtain a decree would vary significantly from how villagers may believe that they would obtain title. I am convinced that there is nothing amiss in the judgments of the Courts below for intervention. I confirm the judgments passed by the Courts below and dismiss the appeal.

(K. KANNAN)
JUDGE

September 10, 2015
Pankaj*