

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

**RSA No. 142 of 2014(O&M)**  
**Date of decision : December 17, 2015**

**Charan Singh and others**

**..... Appellants**

**Versus**

**Jaswinder Kaur and others**

**..... Respondents**

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

Present:- Mr. Samir Rathaur, Advocate  
for the appellants.

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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).**

The appellants-defendants are in Regular Second Appeal against the concurrent finding of fact whereby the decree for possession of the suit property was passed in favour of the respondents-plaintiffs.

Learned counsel appearing on behalf of the appellants submits that initially the suit for permanent injunction was filed, however, during the pendency of the suit, the same was converted in a suit for possession but the trial court did not frame the issue of possession yet decreed the suit, therefore, the judgments and decrees of both the courts below suffer from illegality and perversity.

He further submits that respondents-plaintiffs have

admitted that appellants-defendants are in possession. The appellants-defendants have been able to prove on record, through the testimony of DW-1 to DW-5, that they are in continuous, long, open and hostile possession. In essence, they had acquired title by way of adverse possession. These facts have not been noticed by both the courts below, therefore the judgments and decrees are liable to be set aside.

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

Where the appellants-defendants have set up a plea of adverse possession, title of the respondents-plaintiffs is admitted. The suit property is a Bara vacant land in village abadi. In order to substantiate the plea of adverse possession, the appellants-defendants were required to plead a specific date, month and year from which they had been in continuous, open notorious possession, much less to the knowledge of the whole world as well as the plaintiffs. No documentary evidence, in this regard, has been proved or placed on record.

In my view, both the courts below have rightly decreed the suit. It is a settled law that where the parties are alive to the situation and have lead evidence, framing of the issue is immaterial. The aforementioned finding is supported by the judgment in **P. Purushottam Reddy Vs. M/s Pratap Steels Ltd. 2002 (2) RCR (Civil) 70.**

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 judgments and decrees of the courts below.

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 17, 2015**  
**archana**