

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

RSA No.3842 of 2014 (O&M)

Date of decision : 02.07.2015

Ishwar Singh & others

...Appellants

versus

Dharambir

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jai Bhagwan Sharma, Advocate for the appellants.

RITU BAHRI , J (Oral)

CM Nos.8926-27-C of 2014

There is a delay of 12 days in filing and 17 days in refiling the appeal.

For the reasons mentioned in the applications, the same are allowed and the delay of 12 days in filing and 17 days in refiling the appeal is condoned.

CMs stand disposed of.

RSA No.3842 of 2014

The appellants/plaintiffs have come up in regular second appeal against the judgment of the trial Court dated 08.05.2012 and the lower appellate Court dated 18.01.2014 whereby their suit for permanent injunction has been dismissed.

The plaintiffs are claiming possession on the basis of execution of sale deed dated 19.04.1994 Ex.P2. The plaintiffs have

also sought a decree of declaration that the judgment and decree in case No.727 dated 04.08.1990 and subsequent mutation bearing No.1973 sanctioned on 28.02.1996 was illegal, null and void and not binding on the rights of the plaintiffs. A concurrent finding of fact has been recorded by both the Courts below that judgment and decree suffered in the year 1990 by Topan Dass had been sanctioned in the year 1996 on the basis of which revenue record i.e. record of rights had been changed in the same year, which being a public document was easily accessible to the plaintiffs. The jamabandi for the year 1996-97 is Ex.P8 is depicting the record of rights of the parties. The plaintiffs had filed a suit in the year 2008 which was held to be hopelessly time barred. Moreover Topan Dass who remained owner in possession of the property till he suffered the judgment and decree in favour of his son Dharambir in the year 1990 and mutation was sanctioned in the year 1996. Name of the plaintiffs does not appear in the revenue record the column of possession of the suit property and Ex.P2 has not been mutated therein. The suit of the plaintiffs has been rightly dismissed by both the Courts by observing that khasra girdawari Ex.D2 and jamabandi Ex.P10 depicts the possession of the defendants over the suit property. No ground to interfere in the concurrent finding recorded by both the Courts below is made out.

Dismissed.

02.07.2015
Vinay

(RITU BAHRI)
JUDGE