

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

R.S.A. No.951 of 2015 (O&M)

Date of decision: 30.3.2015

Parshada Ram through LRs

... Appellants

Versus

Mohan Singh through LRs and Ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Vineet Chaudhary, Advocate
for the appellants.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

This is the defendant's second appeal. Admittedly, the defendants are in possession of suit corpus but have no title to the property. The plaintiff brought a suit for possession on 6.12.2006 before the Civil Judge (Junior Division), Ambala with the consequential relief of permanent injunction restraining the defendants from alienating or transferring the corpus or for raising any construction thereon. The suit succeeded. The defendants' appeal has failed which has brought them in this second appeal.

Learned counsel for the appellants submits that his clients have come into possession of the land on the basis of a pronote executed in 1987 which they treat as a sale of land from vendors Krishan Lal and Girdhari Lal. However, in defence of the suit, they were unable to disclose or show

any right, title or interest of Krishan Lal and Girdhari Lal as owners of corpus from when they claim rights to property. Both the Courts below reasoned that for this defect in establishing title, then the exchange deed dated 8.1.1986 could not be firm foundation of rights in suit land. The exchange deed Ex.D2 when not acted upon or converted into a registered sale deed, does not pass title to the land. Onus was on the defendants to prove that they were rightful claimants to corpus but they failed to do so.

Both the Courts below have passed well reasoned order after appreciating the evidence on record and no question of law, muchless substantial one arises in this appeal warranting interference in the matter. The application under Order XLI Rule 27 filed by the defendants before the first Appellate Court was dismissed together with the appeal.

The application under Order XLI Rule 27 remain within the discretion of the lower appellate Court on standards laid down therein, which is the last Court of fact and law and this Court in appeal under Section 100 CPC cannot correct errors of fact or even errors of law except those which give rise to substantial questions of law. Reference may be had to **Santosh Hazari v. Purushottam Tiwari (D) through LRs** AIR 2001 SC 965 for the scope of interference in second appeal.

Consequently,

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his appeal fails and is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

March 30, 2015

Paritosh Kumar

