

RSA No.4427 of 2014 (O&M)

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

RSA No.4427 of 2014 (O&M)

Date of Decision: August 24, 2015

Sukhwinder Singh @ Sukhjinder Singh & others

...Appellants

Versus

Gurmit Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Namit Gautam, Advocate
for the appellants.

AUGUSTINE GEORGE MASI, J. (Oral):

Challenge in this appeal is to the judgments and decree passed by the Courts below by which the suit of the respondent-plaintiffs for declaration to the effect that they are owners in possession of the land measuring 5 Kanals 2 Marlas comprised in Rectangle No.23, Killa No.6/2 situated at village Shakur, Tehsil and District Ferozepur and the alleged sale-deed executed by Karnail Singh, proforma respondent No.4/defendant No.1 in favour of appellant-defendants No.2 to 4, dated 10.06.1985, regarding aforesaid land measuring 5 Kanals 2 Marlas is illegal, null and void with consequential relief of permanent injunction restraining the appellant-defendants from causing illegal and unlawful interference in the land in dispute, stands decreed and the appeal against the said decree, stands dismissed.

It is the contention of the counsel for the appellant-defendants No.2 to 4 that both the Courts below have failed to appreciate the evidence which has been led by the parties in its true perspective and while recording the contentions and findings, have only referred to the statements in examination-in-chief and ignored the cross-examinations of the witnesses produced by the plaintiffs. He, thus, contends that the findings recorded by the Courts below cannot sustain as the same are result of misreading of the evidence.

His further contention is that the said judgments being contrary to the stand of the parties, cannot sustain especially when the suit which has been filed by the respondent-plaintiffs, is beyond limitation as it is an admitted fact qua assertions of the respondent-plaintiffs that they had come into possession of the land in the year 1996 and therefore, they could have filed the suit within a period of three years thereafter, if there was any dispute in this regard. Prayer has, thus, been made for allowing the present appeal by setting aside the judgments and decree passed by the Courts below.

This contention of the counsel for the appellant-defendants No.2 to 4 cannot be accepted as in the considered view of this Court, the evidence has rightly been appreciated by the Courts below as has been highlighted by the counsel for the appellant-defendants No.2 to 4 with reference to the cross-examinations. There are some assertions which appeared to be not in consonance

with the examination-in-chief but those are not of such nature as would impinge upon the credibility of statements which were made by them to prove the stand of the respondent-plaintiffs. Mild discrepancies which have been pointed out by the counsel would not effect and impinge upon the purpose and the basis of the suit as filed. The findings as have been recorded by the Courts below cannot be faulted with.

As regards the contention of the counsel for the appellants that the suit is barred by limitation, especially in the light of the fact that the respondent-plaintiffs, according to their stand, had come into possession of the land in the year 1996, suffice it to say that the Courts below have rightly come to the conclusion that the suit pertains to declaration seeking themselves to be owners on the basis of title where no period of limitation has been prescribed, therefore, the said finding also cannot be faulted with.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

August 24, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**