

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

R.S.A. No.347 of 2011 (O&M)

Date of decision: 14.03.2016

Mehnga Singh and others

...Appellants

Versus

Darshan Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R. C. Sharma, Advocate for the appellants.

Mr. Liaqat Ali, Advocate for the respondents.

Jitendra Chauhan, J.

CM No.962-C of 2011

For the reasons contained in the application, same is allowed, subject to all just exceptions.

Main Case

This regular second appeal is directed against the judgment and decree dated 18.09.2010, passed by the learned Additional District Judge, Jalandhar, (for short, the 'first Appellate Court') whereby, the appeal filed by the appellant, against the judgment and decree dated 10.11.2008, passed by the learned Civil Judge, Jr. Divn., Nakodar, (for short, the 'trial Court'), has been dismissed.

The learned counsel for the appellants contends that the electricity connection in the disputed house is in the name of Sadhu Singh, the grandfather of the appellant No.1. The house in question is an ancestral property. The possession of the appellants on the disputed house is duly proved by the notices issued to appellant No.2 by the Punjab State Electricity Board for paying the electricity bills. The learned Courts below have wrongly ignored the panchayatnama i.e. Ex.PW-1/7 vide which the Sarpanch of the village had acknowledged the possession of the appellants over the suit property. Therefore, the judgments and decrees passed by the learned Courts below are liable to be set aside.

On the other hand, the learned counsel for the respondents vehemently opposes the possession of the appellants over the disputed property. It is asserted that the respondents went abroad and the appellants in their absence had forcibly taken the possession of the house in question. Being co-sharers, the respondents are in possession of the house in dispute and whenever they used to come to the village, they used to reside in the said house.

I have heard the learned counsel for the parties and carefully gone through the entire record on file.

The appellants are claiming the ownership/possession over the disputed house on the basis of the fact that the same is

ancestral and they are legal heirs of the son of Sadhu Singh. However, the appellants have not been able to place on record any cogent evidence to establish their claim as the respondents are also the legal heirs of Tara Singh, who happens to be the son of Sadhu Singh. Merely because the property in question is an ancestral one the appellants cannot claim ownership. The appellants further failed to state that being the legal heirs of deceased Tara Singh S/o Sadhu Singh, which property the respondents had received. Even the description of the property in dispute given by the appellants as one unit, is contrary to the report of the Local Commissioner and the panchayatnama, Ex.PW-1/7. In these circumstances, the appellants have not proved their possession over the disputed property. Thus, the learned Courts below have rightly declined the plea of the appellants.

On consideration, this Court finds that the contentions raised by the learned counsel for the appellants have no merit. No evidence has been shown to have been ignored from consideration. These are pure findings of fact. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed.

14.03.2016

ashok

(JITENDRA CHAUHAN)
JUDGE