

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

RSA No.1259 of 2012(O&M)

Date of decision:1.4.2016

Rama and others

....Petitioners

VERSUS

Sher Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. U.K. Agnihotri, Advocate for the petitioners.

REKHA MITTAL, J. (Oral)

The plaintiffs are in appeal against the consistent findings recorded by the Courts below whereby suit filed by the plaintiffs was dismissed by the learned trial Court and the findings recorded by the trial Court have been affirmed in appeal.

The present litigation pertains to land measuring 5 marlas comprised in Khasra No.25//25/2 situated in village Sirsa Kheri. Counsel for the appellants would contend that the suit property was purchased by their father Tika Ram son of Har Chand along with others on the basis of a *Bahi* entry (Ex.P7) dated 01.02.1973 for a sale consideration of Rs.1000/-. It is further argued that as there is no contest to claim of the appellants with regard to *Bahi* writing (Ex.P7) as well as their possession, the findings recorded by the Courts below cannot be allowed to sustain. It is further submitted that the appellants being owners in possession of the suit land are entitled to protect their possession.

I have heard counsel for the appellants and perused the record particularly the judgments passed by the Courts below.

The Courts have consistently held that *Bahi* writing (Ex.P7) does not confer title qua suit property in favour of the appellant as subject matter of the document is land valuing Rs.1000/-, therefore, the same is compulsorily registerable under Section 17 of the Registration Act, 1908.

The plea of the appellants in regard to adverse possession over the suit property has also been rightly negated by the Courts as the appellants claim themselves to be in permissive possession of the suit land on the basis of *Bahi* writing (Ex.P7). This apart, the appellants cannot claim ownership of the suit land by way of adverse possession as plea of adverse possession cannot be used as a sword but can be raised only in defence. In this context, reference can be made to judgment of Hon'ble the Supreme Court Gurudwara Sahib vs. Gram Panchayat Village Sirthala and another, 2013 (4) RCR (Civil) 703.

In view of the above, I do not find any error much less illegality in the findings recorded by the Courts below, when otherwise no question of law much less a substantial one arises for adjudication.

For the foregoing reasons, the appeal is dismissed.

APRIL 1, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE