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

**RSA-4024-2011 (O&M)  
Date of decision : 01.08.2016**

Sita Ram and others

... Appellants

Versus

Dharam Pal and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Arvind Bansal, Advocate  
for the appellants.

Mr. C.B. Goel, Advocate with  
Mr. Manoj Sharma, Advocate  
for the respondents.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

**AMIT RAWAL, J. (ORAL)**

The appellants-plaintiffs are aggrieved of the dismissal of the suit seeking possession of the property measuring 250 square yards.

Mr. Arvind Bansal, learned counsel appearing on behalf of the appellants-plaintiffs submits that the appellants-plaintiffs, namely, Sita Ram, Suraj Bhan, Ishwar and Chander Bhan sons of Hari Chand, were the owners of the land measuring 250 square yards. Hari Chand died in the year 1999. The respondents-defendants had given the land for tethering the cattle and did not hand over the possession, in this context, the suit for possession of the aforementioned plot was filed in the year 2006. The

respondents-defendants contested the suit by setting up the counter claim that Chander Bhan-plaintiff No.4 entered into an agreement to sell dated 22.07.1993 and the aforementioned agreement to sell was witnessed by the plaintiff No.1 Sita Ram and plaintiff No.2-Suraj Bhan had also appended his signatures on the receipt. The trial Court partly decreed the suit by protecting the share of all the plaintiffs except Chander Bhan as he was the signatory of the agreement to sell. He submits that at the best, in case, the agreement to sell is to be looked into, it could have been only for Chander Bhan, rightly so, the appellants-plaintiffs did not file any cross-appeal/appeal, but the lower Appellate Court in an appeal preferred by the defendants-counter-claimants has set aside the aforementioned findings and dismissed the suit in toto i.e. by decreeing the counter-claim and granted specific performance of the agreement to sell, thus, urges this Court for formulation of the substantial questions of law as noticed in the memorandum of appeal.

Mr. C.B. Goel, learned counsel appearing on the behalf of the respondents-defendants submits that it is in the family settlement that the entire share of Hari Chand had fallen to Chander Bhan and it is, in this context, Chander Bhan had entered into an agreement to sell and for that reason, the other brothers/sons had witnessed the same, whereas, Suraj Bhan had witnessed the receipt, thus, the existence of the family arrangement was in their knowledge. The aforementioned fact had been noticed by the lower Appellate Court while dismissing the suit of the plaintiffs and decreeing the counter-claim. He further submits that the suit was barred by law of limitation as the possession had been claimed in the year 2006, whereas the

defendants were put into possession way back in the year 1993, thus, urges this Court for affirming the findings rendered by the lower Appellate Court.

I have heard the learned counsel for the parties and appraised the paper book. The appellants-plaintiffs have failed to prove that the defendants were put into possession. No documentary evidence, in this regard, has been placed on the record. Due to their act and conduct in seeking the possession itself shows that the defendants had been put into possession. The question now raised is that on which date possession has been taken. The document expert examined had given the report that the agreement to sell bore the signatures of Chander Bhan and Sita Ram as a witness, though, Chander Bhan is witness to the receipt, but his signatures were not compared. It is, in this background of the matter that the lower Appellate Court formed an opinion that there was a family settlement arrived at among all the siblings giving the right to Chander Bhan to further sell the same. Even in the written statement to the counter claim, the appellants-plaintiffs have denied the contents of the same, but stated that the signatures had been obtained on the blank paper. Even otherwise, the suit was barred by law of limitation in view of the factum of having handed over the possession to the defendants way back in the year 1993 as noticed above. The suit is instituted in the year 2006 beyond 12 years. In my view, the findings of the trial Court have rightly been reversed by the lower Appellate Court viz-a-viz the declining of the counter-claim qua the entire property.

For the foregoing reasons, I do not intend to differ with the findings rendered by the lower Appellate Court which are based upon the

appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination and the appeal is, resultantly, dismissed.

01.08.2016  
yogesh

( AMIT RAWAL )  
JUDGE

|                           |         |
|---------------------------|---------|
|                           | ✓       |
| Whether speaking/reasoned | Yes/ No |
| Whether Reportable        | Yes/ No |