

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

**Regular Second Appeal No.4558 of 2011 (O&M)
Date of Decision: March 04, 2016.**

Shangara Singh

.....APPELLANT(s).

VERSUS

Sadaq and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arun Takhi, Advocate
for the appellant (s).

SURINDER GUPTA, J.

CM-13252-C-2011

Heard. There is delay of 4 days in re-filing the appeal.

2. In view of the facts mentioned in the application, the same is allowed and delay of four days in re-filing the appeal is, hereby, condoned.

RSA-4558-2011

3. Heard.

4. The plaintiff filed suit seeking declaration that he is owner in possession of the property in dispute bearing khasra No.176/2 (0-8) situated in village Rawan, Tehsil Dasuya, District Hoshiarpur as fully described in the head note of the plaint.

5. The claim of the plaintiff is based on two pleas firstly, that he is owner in possession on the basis of writing dated 28.09.1987 executed by

defendant No.1 Sadaq son of Chanda in his favour and secondly, his possession over the suit land has matured into title being adverse against the true owner.

6. Both the pleas of the plaintiff were discarded by learned Civil Judge (Junior Division), Dasuya and his suit was dismissed. The appeal filed by the plaintiff was also dismissed by learned Additional District Judge, Hoshiarpur.

7. Learned counsel for the appellant has argued that Amar Kaur was the owner of the suit land. In lieu of the services rendered to her, she had given this land to defendant No.1 Sadaq, who further alienated the same vide writing dated 28.09.1987 to the plaintiff for a consideration of ₹8,000/-. In view of the sale of land, defendant No.1, defendants No.7 to 11, who are legal heirs of Amar Kaur and defendants No.2 to 6, who are collateral of Sadaq have no right to interfere in the possession of the plaintiff. He has, however, not pressed the other plea taken by the plaintiff that he has become owner of suit property by way of adverse possession. Learned counsel for the appellant has confined the relief in this appeal only to the extent of grant of decree of permanent injunction as the plaintiff is in possession over the suit land as per entry in the revenue record.

8. Admittedly, the suit land was owned by Amar Kaur and after her death, defendants No.7 to 11 are her legal heirs. Sadaq was recorded in possession of the suit land as tenant *Gair Marusi Avval*. No evidence regarding the plea of plaintiff that Amar Kaur had transferred the title of the suit property in favour of Sadaq has come on record. This dispel the plea of plaintiff that he had purchased the suit land from Sadaq.

9. Appellant-plaintiff is recorded as tenant *Gair Marusi* under Sadaq over the suit land. This entry in the jamabandi nowhere reflect his exclusive possession over the suit land. The possession of Sadaq over the suit land is recorded in the jamabandi, which is over and above the possession of plaintiff. The possession of plaintiff in jamabandi is recorded under Sadaq and not equivalent to him. The plaintiff, as such, is neither owner nor in exclusive possession of the suit land, as such, both the Courts below have committed no error of law or fact while declining the relief of declaration and injunction as claimed by him.

10. On perusal of the record and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

11. No substantial question of law requiring determination arises in this appeal, which has no merits.

12. Dismissed.

March 04, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE