

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

**RSA No.2204 of 2012 (O&M)
Decided on: 19.02.2016**

Chirya Devi

....Appellant

Versus

Kamla Devi and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sanjay Mittal, Advocate
for the appellant.

Mr. Lokesh Sinhal, Advocate
for respondent No.1.

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?*

REKHA MITTAL J. (Oral)

The present regular second appeal has been directed against the judgment and decree dated 21.01.2012, passed by the Additional District Judge, Narnaul, dismissing the appeal of Chirya Devi (appellant) against the judgment and decree dated 15.09.2009, passed by the trial Court, dismissing the suit of the plaintiff/appellant.

In brief, the appellant filed a suit for injunction

restraining the respondent/defendant to interfere in her possession of the suit property on the plea that she is owner in possession of 1/16th share in land comprising Killa No.63, Mustil No.15, total measuring 08 kanals by way of purchase vide registered sale deed dated 15.03.1999 on the basis whereof, mutation was sanctioned on 30.09.1999.

Kamla Devi filed the written statement contesting claim of the appellant with the averments that she is in possession of the suit property purchased by her vide sale deed dated 18.11.1989 and since then she is in continuous possession of the property and has constructed a boundary wall.

The learned trial Court, in view of its observations in para 11 of the judgment has non-suited claim of the appellant in respect of her possession of the suit property or entitled to seek injunction as prayed for. The findings recorded by the trial Court were duly affirmed in appeal by the Additional District Judge, Narnaul.

I have heard counsel for the parties, perused the records and find no merit in the appeal.

The sole submission made by counsel for the appellant is that as the suit property is vacant land and the appellant has been held to be owner thereof by both the Courts, she is deemed to be in possession of the suit land and, thus, entitled to seek relief of injunction against unlawful interference in her possession by the

respondent.

Counsel for the respondent has supported the judgments passed by the Courts below with the submission that the same are based on detailed consideration of the entire matter in right perspective as well as settled principles in law. It is further argued that the appellant admitted in cross-examination that possession of the suit land was never handed-over to her. As there is a boundary wall around the suit property, contention raised by counsel for the appellant that the appellant shall be deemed to be in possession of the suit property is devoid of merit and has been rightly rejected by the Courts.

Counsel for the appellant has not disputed that there is a boundary wall around the property in question and this fact is sufficient to negate plea of the appellant that she is deemed to be in possession of the suit property on the basis of her ownership accepted by the Courts below. So far as the plea of the appellant that she is in actual physical possession of the suit land, the same gets falsified and belied in view of her candid admission during cross-examination that possession of the suit land was never handed-over to her. Though the appellant cannot seek any aid to her case from weakness of the defence but plea of the respondent/defendant in regard to her possession of suit property gets corroborated from report of Hoshiar Singh Girdawar and testimony of Hari Singh Mason DW-4. In this view of the matter, I

do not find any error much less perversity in the consistent findings recorded by the Courts below when otherwise no substantial question of law arises for adjudication.

For the foregoing reasons, the appeal is dismissed leaving the parties to bear their own costs.

(REKHA MITTAL)
JUDGE

19.02.2016

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