

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

RSA-2794 OF 2012

Date of Decision: 14.01.2016

RAJ SINGH

---Appellant

versus

SIRI RAM AND OTHERS

---Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ranjit Saini, Advocate
for the appellant.

Mr. R.S. Dhull, Advocate
for respondents No.1 to 3.

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

REKHA MITTAL, J.

The present appeal has been directed against the concurrent findings of fact recorded by the Courts below, whereby the suit filed by the appellant/plaintiff was dismissed by the trial Court and the findings recorded by the trial Court were affirmed in appeal.

The appellant filed a suit for declaration that the appellant and performa respondent-Randhir Singh are owners in possession in equal shares by way of adverse possession of agricultural land to the extent of 13

kanals 14 marlas qua 1/5th share of the contesting respondents, in khewat No.206 khata No.267-270 measuring 107 kanals 18 marlas and khewat no.46 khata no.62-64 measuring 40 kanals 17 marlas vide jamabandi for the year 2001-02 situated within revenue estate of village Gunkali, Tehsil and District Jind. Further, prayer was made for permanent injunction restraining the respondents from interfering in peaceful and proprietary possession of the appellant and performa respondent in respect of the said land.

The learned trial Court non-suited claim of the appellant primarily on two counts i.e. the suit seeking declaration of ownership on the basis of adverse possession is not tenable as the plea of adverse possession can be raised by way of defence only. It was further held that as the appellant is one of the co-sharers in the suit land, the plea raised by him is mis-conceived. As has been noticed hereinbefore, the findings recorded by the trial Court were affirmed in appeal.

Counsel for the appellant is not in a position to assail these legal and factual findings recorded by the Courts below on any ground whatsoever. He has fairly conceded that in view of enunciation of law laid down by Hon'ble the Supreme Court of India in “Gurudwara Sahib Vs. Gram Panchayat Village Sirthala and another” 2013 (4) RCR (C) 703, a suit for declaration claiming ownership by way of adverse possession is not maintainable. Even otherwise, it has been consistently held by the Courts that plea of adverse possession can be used as a shield and not as a sword.

In view of the above, neither any substantial question of law arises for adjudication nor there is any error much less illegality in the judgments passed by the Courts below.

In view of the above, the appeal is devoid of merit and is accordingly dismissed leaving the parties to bear their own costs.

14.1.2016

SwarnjitS

(REKHA MITTAL)
JUDGE