

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.955 of 2011

DATE OF DECISION: October 24,2016

Baljeet Singh and others

...Appellants

versus

Hari Chand and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Arvind Singh, Advocate for the appellants.
Mr.Viney Saini, Advocate for the respondents.

AMIT RAWAL, J.

The appellants-plaintiffs are aggrieved of the concurrent findings of the Courts below, whereby their suit for possession was dismissed.

Mr.Arvind Singh, learned counsel for the appellants submits that Chetan was allotted the land measuring 0 kanal 8 marlas bearing khasra No.210 in the capacity of possessory rights as gair morousi. Chetan died and his son Ram Nath pre-deceased him and his wife Suner sold the property vide sale deed dated 11.9.1978, Ex.P2. Since there was a dispute with regard to correction in the revenue records, the appellants instituted a civil suit bearing

No.388 of 1999 against Baljinder son of Smt. Suner for correction of the same and the suit was decreed on the basis of compromise Ex.CX where there was a recital of khasra number. Thus, the finding given by the Courts below that the sale deed does not prescribe khasra number is totally incorrect as the recognition of the property was based upon the compromise. The aforementioned fact has been ignored by both the Courts below.

On the contrary, Mr.Viney Saini, learned counsel appearing for the respondents submits that the appellants have failed to prove the aforementioned sale deed, inasmuch as, none of the witnesses have been examined. In fact, the defendants were in possession of the adjoining land (i.e. property in dispute) since long. They also set up the plea of adverse possession.

I have heard the learned counsel for the parties.

The appellants were required to prove by way of some evidence, much less, the demarcation report as contents of the sale deed do not reveal khasra No.210. Even the witnesses of the sale deed have not been examined. Claiming the dispute property on the basis of compromise would not be binding upon the present respondents. I am of the view that the appellants have failed

to discharge the onus as required under Section 101 of the Indian Evidence Act.

In view of the aforesaid discussion, I find not merit in the present regular second appeal.

Dismissed.

October 24,2016
KD

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No