

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

RSA No.4520 of 2012 (O&M)

Date of decision : 11.01.2016

Satbir and another

...Appellants

Versus

Lal Singh and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Rakesh Dhiman, Advocate for the appellants.

Mr. Virender Rana, Advocate for respondent Nos.1, 2, 4 & 5.

AMIT RAWAL, J. (Oral)

The appellants-defendants are in Regular Second Appeal against the concurrent findings of fact, whereby suit for possession of the suit property filed by the respondent-plaintiffs, has been decreed.

Mr. Rakesh Dhiman, learned counsel appearing on behalf of appellants-defendants in support of his grounds has raised following arguments:-

1. The plaintiffs had not come to the Court with clean hands, in essence, construction of the plot was raised wayback in the year 1987, whereas suit had been filed on 20.07.2000 and the possession was permissive.

2. An alternative plea of adverse possession was taken which has been proved through the testimony of five witnesses.

3. The defendants have become owner of the property by law of prescription as they have been in continuous and hostile possession of the property since 1994 to the knowledge of the respondent-plaintiffs. All these aspects have not been noticed by the Courts below, therefore, substantial question of law arises for determination by this Court.

Mr. Virender Rana, learned counsel appearing on behalf of respondent Nos.1, 2, 4 & 5 submits that filing of the suit itself tantamounts to the withdrawal of the permission. The plea of adverse possession has not been proved by leading any direct and cogent evidence. Even otherwise adverse possession would start from the day when the licence is revoked and the suit has been filed in the month of July 2000 i.e. after revocation of the licence and, therefore, defendants cannot claim the plea of ownership by way of prescription.

I have heard learned counsel for parties and appraised the paper book.

On going through the contents of written statement, defendants have not taken the plea that licence had become irrevocable nor any evidence has been led in this regard. On receipt of the notice of the suit for the possession, permission is deemed to have been revoked and thereafter the status is of trespassers. It is from that date, the time would start running for taking plea of adverse possession. The witnesses examined on behalf of appellant have not been able to prove the continuous adverse possession, much less, animus possendendi. No documentary evidence has been

placed on record except electric connection to prove that possession has been adverse despite the fact that defendants can take the mutual destructive plea. The construction raised by the appellants-defendants is at his own peril.

In view of what has been observed above, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for determination by this Court.

Appeal is dismissed.

11.01.2016

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**(AMIT RAWAL)
JUDGE**