

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 1485 of 2016(O&M)
Date of decision : April 4, 2016

Phool Chand Aggarwal

..... Appellant

Versus

Smt. Mithlesh Rani and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Kapil Aggarwal, Advocate
for the appellant.

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?

Amit Rawal, J (oral).

The appellant-defendant is aggrieved of the concurrent finding of fact and law whereby suit for possession filed at the instance of respondent-plaintiff has been decreed.

Learned counsel for the appellant submits that dismissal of the previous suit claiming ownership on the basis of tenancy rights would not come in the way of defendant by setting up the plea of adverse possession. The defendant did not engage any counsel but appeared in person and contested the suit. It is only for the first time the counsel was engaged when appeal was filed. There has been long, settled, continuous and notorious possession to the knowledge of the respondents-plaintiffs, therefore they could not have stepped in the shoes of erstwhile owner by virtue of sale deed dated 28.6.2000 seeking possession, but these facts have not been noticed by the courts below, thus, there is illegality and perversity in

the impugned judgment and decree and the same is liable to be set aside.

I have heard learned counsel for the appellant, appraised the paper book and of the view that the appellant-defendant has failed to prove the ingredients of adverse possession, much less “Animus possendendi” as enunciated under Article 65 of the Limitation Act. The appellant-defendant has failed to prove the actual date by which the alleged possession became adverse much less in long, settled possession to the knowledge of the whole world, whereas, on the contrary respondents-plaintiffs proved the sale deed dated 28.6.2000. Setting up of plea of adverse possession tantamounts to admission of ownership rights of the adverse party, rightly so the courts below have decreed the suit for possession.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

April 4, 2016
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