IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Regular Second Appeal No.4472 of 2013 (O&M)
Date of Decision: March 03, 2016.

Shakuntala and others

.....APPELLANT(s).

VERSUS

Jagdish and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vikas Bahl, Senior Advocate with
Ms. Balpreet Kaur, Advocate
for the appellant (s).

****

SURINDER GUPTA, J.

This is second appeal by legal representatives of Sham Lal plaintiff against the judgment and decree passed by Additional Civil Judge (Senior Division), Kharar, whereby the suit of the plaintiff (Sham Lal) seeking relief of permanent injunction was partly decreed and the defendants were restrained from interfering in the peaceful possession of the plaintiff over the land as fully detailed in head note of the plaint except land bearing khasra No.190. The suit of the plaintiff pertaining to land bearing khasra no.190 was dismissed.

The reasons for dismissal of the suit given by learned Additional Civil Judge (Senior Division), Kharar are as follow:-

(i) Defendants have purchased three bighas land out of khasra No.190 from Sadhu Singh, father of Sham Lal plaintiff vide sale deed dated 30.04.1990.

SACHIN MEHTA
2016.03.16 14:35
I attest to the accuracy and
authenticity of this document
HIGH COURT, CHANDIGARH

(ii) Sham Lal, plaintiff when appeared as PW1 did not deny that defendant is in possession of 3 bighas of land out of khasra No.190. The other witness Sadhu Singh PW2 examined by the plaintiff also admitted the possession of the defendants. He has stated that defendants are residing in the village and are cultivating 3 bighas of land.

Learned counsel for the appellants has advanced two arguments; firstly, that Sadhu Singh had already sold the land of his share and secondly, in the sale deed dated 30.04.1990, it is recorded that only symbolic possession has been given to defendants and not actual possession at the spot.

Both the submissions of learned counsel for the appellants have no merits as it is not supported by any evidence on record that Sadhu Singh had already sold his share in the suit land. Even otherwise, this argument may be relevant only if the sale deed in favour of defendants is under challenge. Despite the recital in the sale deed that defendants were given symbolic possession of the land purchased by them, it is proved from statement of plaintiff and his witness that they are in actual possession of 3 bighas of land at the spot.

In view of the discussion above, the judgment and decree passed by the Courts below call for no interference.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

(SURINDER GUPTA)
JUDGE

March 03, 2016.
Sachin M.

SACHIN MEHTA
2016.03.16 14:35
I attest to the accuracy and
authenticity of this document
HIGH COURT, CHANDIGARH