

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

RSA No.3893 of 2016 (O&M)

Date of Decision.22.08.2016

Raj Kumar @ Raju and another

.....Appellants

Vs.

Maan Singh and others

.....Respondents

Present: Mr. Parminder Singh, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

AMIT RAWAL J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the claim seeking permanent injunction in respect of disputed property on the basis of certain documentary evidence, has been declined. The appeal is also accompanied by application seeking condonation of delay of 118 days in filing the appeal. The reason assigned in the application is that the certified copy of the judgment of the lower Appellate Court was not supplied and therefore, the delay of aforementioned days had occurred. The application is also accompanied by an affidavit.

On merits, it has been asserted that ration card, electricity bills and gas connection had been brought on record to show that the plaintiff had been in possession of the property whereas, on the contrary, the Courts below have relied upon the alleged writing dated 31.05.2003, Ex.DW1/A vide which the father of the appellant-plaintiff had sold the property to the defendants and handed over the possession described as 36' in length and 15' in width. Since the property situated in the *lal dora*, therefore, documents are not registered.

further submits that the aforementioned documents, *prima facie*, establish the possession of the plaintiff, yet the Courts below did not grant injunction which was a sufficient requirement of law as per the ratio decidendi culled out in the judgment of Hon'ble Supreme Court in **Rame Gowda (D) by LRs Vs. M. Varadappa Naidu (D) by LRs (2004) 1 SCC 769**, thus, urges this Court for reversing the findings rendered by the Courts below by allowing the appeal.

I have heard learned counsel for the appellant and appraised the paper book. As per the evidence brought on record, the defendants have also proved the *Chulah* tax and other documents to show that they have been put in possession, much less, receipt of ₹10,800/- against the sale consideration given by respondent-defendant No.1 to father of appellant-plaintiff. This Court during the course of arguments raised a query to Mr. Parminder Singh as to how many children the appellant-plaintiff's father have. The answer is three children. If all the children are school going, evidence qua their birth certificates and admission in the school could have been placed on record being the latest document to show the possession. The receipt and the writing had been proved by the attesting witnesses as well as other respected members of the Panchayat. Their testimony had not been shattered despite extensive cross-examination.

In my view, the appellant-plaintiff has miserably failed to prove the possession and rightly so the Courts below have not interfered in granting injunction. I do not find any illegality and perversity in the judgments and decrees passed by the Courts below as the same the founded on correct appreciation of documentary as well as oral evidence, much less, no substantial question of law arises for consideration in the second appeal.

The second appeal is dismissed on grounds of merit as well as on limitation.

(AMIT RAWAL)
JUDGE

August 22, 2016
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No