

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

(1) RSA-2558 of 2014 (O&M)
Date of decision: 16.05.2016

Abhay Singh and another

...Appellants

Versus

Indra Gupta and another

...Respondents

(2) RSA-2615 of 2014 (O&M)
Date of decision: 16.05.2016

Abhay Singh and another

...Appellants

Versus

Sadhna Gupta and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Jai Vir Yadav, Advocate for the appellants.

Jitendra Chauhan, J. (Oral)

The above noted two appeals are being disposed of by this single judgment, having arisen out of common judgment. However, the facts are being derived from RSA No. 2558 of 2014.

2. The suit for possession filed by the plaintiff/respondents was decreed by the trial Court, vide

judgment and decree dated 13.11.2009.

3. Aggrieved against the findings of trial Court, the appellants filed an appeal which was dismissed by the learned 1st Appellate Court, vide judgment and decree dated 05.09.2013.

4. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal has been filed by the appellants.

5. The sole argument raised by learned counsel for the appellant is that both the Courts below have failed to consider the fact of adverse possession of the appellants over the suit property for more than 12 years. The preemption suit filed by the appellants was decreed in their favour and by virtue of the decree, they took the possession of the suit land in their favour and they are shown to be in possession in the revenue record since 1983 to 2005.

6. Heard, the learned counsel for the appellant and perused the record carefully.

7. In the present case, the dispute is qua the ownership of the suit property. The parties have been in litigating since 1981, when the respondents purchased the suit land, by way of sale deeds Ex.PW4/4 to Ex.PW4/6. The appellants had duly admitted the fact that the suit property was purchased by the respondents, vide sale

deeds dated 31.08.1981. The appellants have laid their claim on the basis of preemption suit filed against the respondents which was decreed in their favour and since then, they are owners in possession of the suit property. However, the appeal filed against the said judgment and decree was allowed by the Appellate Court, vide judgment and decree dated 13.01.1984. The appellants are claiming their ownership on the basis of their adverse possession for more than 12 years, however, there is nothing on record to prove as to the fact when they acquired the ownership of the suit land and their possession remained undisturbed. The main strength of their case is that the suit land was acquired on the basis of preemption suit which was decreed in their favour but the same has no bearing as the findings were reversed by the Appellate Court and the same were affirmed by this Court, vide judgment dated 21.05.1986, Ex.P16. It is also pertinent to mention here that Ex.D6, on the basis of which the appellant had alleged that they were in possession was ordered to be reversed by DRO, vide order dated Ex.PX/20 and the entry recorded in the name of the appellants was ordered to be reversed, meaning thereby the revenue record had been corrected and the respondents were recorded in possession of the suit property. There is nothing on record to prove the ownership of the appellants.

8. The trial Court decided issues No.1, 2 and 6 in favour of the plaintiff Indra Gupta holding that the plaintiff is owner of the suit land by virtue of sale deeds Ex.PW4/4 to Ex.PW4/6, therefore, she is entitled to get possession of the suit land in accordance with law. The 1st Appellate Court upheld these findings. This Court also concur with the findings of both the Courts below.

9. On consideration of all the facts and material on record, this Court finds no scope to interfere with the well reasoned judgments of the Courts below. These are pure findings of fact. No question of law, much less substantial question of law, arises in the present appeals. Hence, no interference is called for. Accordingly, both the appeals are dismissed.

A copy of this judgment be placed on the paper book of RSA No.2615 of 2014.

16.05.2016

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(JITENDRA CHAUHAN)
JUDGE