

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

R.S.A. No.5924 of 2014 (O&M)

Date of decision: 09.05.2016

Laxmi and others

..Appellants

Versus

Hawa Singh and others

..Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Amit Jain, Advocate
for the appellants.

Jitendra Chauhan, J.

In this regular second appeal, the plaintiff-appellants have challenged the judgment and decree dated 20.08.2014 of Additional District Judge, Sonapat (for brevity 'Ist Appellate Court') dismissing the appeal filed by the appellants against the judgment and decree dated 24.12.2011 of the Civil Judge (Jr. Divn.), Sonapat, (for brevity 'trial Court') dismissing the suit of the original plaintiff, Umed Singh (since deceased and now represented by LRs).

The learned counsel for the plaintiff-appellants refers to order dated 03.05.2008, whereby the application for seeking

amendment in written statement under Order 6 Rule 17 CPC, was declined and the documents sought to be brought on record, have been wrongly relied upon by the learned Courts below. He further refers to order dated 28.12.1966, passed in the proceedings under Sections 107/151 Cr.P.C., wherein the appellants were found to be in possession of the *Gher* in suit. Lastly, he states that the plaintiff was owner in possession of the suit land since the time of his forefathers and raised the construction by incurring huge expenditure. Therefore, he prays for setting aside the impugned judgments and decrees passed by the learned Courts below.

I have heard the learned counsel for the appellants and carefully scrutinized the record on file.

The case of the appellants is that they are owners and in actual physical possession over the *Gher*, which is shown by letters ABCD in the attached site plan since the time of their forefathers and for proving their case they relied upon the order dated 28.12.1966. While returning the findings with regard to order dated 28.12.1966, vide which it was alleged that the appellants were held to be in possession of the *Gher* in suit, the learned Ist Appellate Court stated that since there is no description of the land in the said order, therefore, it could not be concluded that the land in question is the land mentioned in the order dated

28.12.1966. Thus, the order dated 28.12.1966 could not prove the possession of the appellants over the suit land. Further, vide partition proceedings dated 01.10.1966, Ex.D10, the suit land was allotted to Smt. Dallo and Smt. Patori and 2/3rd of their share vested in favour of respondent No.1 vide consent decree dated 23.01.1991, Ex.D8 and vide sale deed, Ex.D1, respondent No.1 had alienated the 684 Sq. Yards of the suit land in favour of husband of respondent No.2. The appellants have not led any cogent and convincing evidence to prove their ownership and possession over the *Gher* in dispute.

In view of the aforesaid discussion, this Court finds no illegality or infirmity in the findings recorded by the learned Courts below.

No substantial question of law is involved in this case. The judgments and decrees of both the Courts below are hereby affirmed.

Dismissed.

09.05.2016

ashok

(JITENDRA CHAUHAN)
JUDGE