

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.3207 of 2013 (O&M)

Date of decision: 21.11.2017

Raj Kumar and another

..... Appellants

Versus

Narender Sharma

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R. Kartikeya, Advocate
for the appellants.

Ms. Gurdeep Kaur, Advocate, for
Mr. Sandeep K. Sharma, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff had filed a suit for permanent injunction claiming that he has purchased this property through sale deed dated 05.05.2000 from one Chhattar Singh. It was further the case of the plaintiff that in the previous litigation, the predecessor-in-interest of the plaintiff was held to be owner and Municipal Committee, Rohtak was held to have no right, title or interest in the property. On the other hand, the defendants claimed that it is a part of public street/public land. Both the Courts below after appreciating the evidence available on the file decreed the suit filed by the plaintiff while relying upon the previous judgment passed by the Court which is Ex. P-5 on the record.

I have heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

Learned counsel for the appellants has submitted that the appellants cannot restrain from paying the obeisance in the religious property and therefore, the decree passed by the Court would come in their way. In the considered opinion of this Court, the argument is wholly misconceived. Plaintiff had filed a suit for permanent injunction. He had claimed ownership on the basis of sale deed dated 05.05.2000. It was the case of the defendants that the property in dispute is a part of public land/street. In the previous litigation filed against Municipal Committee which is Ex. P-5 on the file, this issue was conclusively decided.

It is not a case of the defendants-appellants that they have been stopped from paying obeisance. The defendants had contested the suit on the ground that it is a part of public land/street.

Taking into consideration that in the previous litigation filed against Municipal Committee, the predecessor-in-interest of the plaintiff was held to be owner and Municipal Committee was held to have no right, title or interest in the property, this Court does not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Hence, the appeal is dismissed.

21.11.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No