

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

RSA No. 3414 of 2013 (O&M)
Date of decision : August 24, 2017

Bhagwant Singh

..... Appellant

v.

Balbir Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. KS Rekhi, Advocate
for the appellant.

Mr. Amit Arora, Advocate
for respondent No.1.

Ajay Tewari, J (Oral)

This appeal has been filed against the concurrent judgments of the Courts below partly decreeing the suit filed by respondent No.1 and holding him entitled to seek possession as per law.

The case set up by respondent No.1 was that he had purchased the house in dispute from respondent No.2 but the son of respondent No.2 i.e the appellant was interfering in his possession. The case of the appellant on the other hand was that he had perfected his title by way of adverse possession.

Both the Courts below held that the appellant had not been able to prove the plea of adverse possession since he was not able to show from which date his possession had become adverse to that of the owner.

It is also not uncommon that father sells property which his

sons dispute. Counsel for the appellant has not been able to show how the finding of the Courts below that the appellant has not been able to prove the plea of adverse possession is wrong. He has relied upon the decision of the Supreme Court in Anar Devi v. Parmeshwari Devi, 2006 AIR (SC) 3332 where it was held that a co-parcener has a share in the ancestral property. Counsel for respondent No.1 points out that neither this plea was taken in the written statement nor was this argued anywhere and the appellant cannot now totally change his stand. Once the appellant had taken the plea of adverse possession, it was clear that he had accepted the title of his father. In the circumstances, even this plea is not available to the appellant. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

August 24, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No