

Sr. No. 103

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

RSA No. 1778 of 2015

Date of decision: 06.11.2017

Piara Singh

.....Appellant

versus

Ram Singh

.....Respondent

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

Present: Mr. Sarbjit Singh, Advocate
for the appellant.

Rajbir Sehrawat, J.(Oral)

This is second appeal filed by the plaintiff having lost before both the Courts below, in a suit seeking possession of land measuring 3½ marlas, situated within Lal Lakir of the village Jodhe, described in the plaint.

For convenience, the parties would be referred herein as plaintiff and the defendant as they were described in the plaint.

The brief facts of the case are that the plaintiff filed a suit claiming that he had purchased land measuring 3½ marlas, situated within Lal Lakir in village Jodhe, described in the plaint, from Hardip Singh @ Hardev Singh vide the agreement dated 02.06.2010. It was claimed that total sale amount of ₹8,000/- was paid to the vendor. On the same day, the possession of the suit property was also handed over by the vendor to the vendee/plaintiff. Later on the plaintiff had gone out of village and in his absence defendant demolished the gate and forcibly occupied the suit property which is in form of plot. It was further pleaded that the plaintiff had approached the Gram Panchayat and the police as well, but defendant refused to vacate the property and threatened to raise the construction over

the suit property illegally. Therefore, decree for possession and injunction against the defendant restraining him from raising any construction over the suit property was filed.

Upon notice, defendant appeared and filed written statement taking routine preliminary objections. On merits, it was claimed that the plaintiff has no concern with the suit land. It was further claimed by the defendant that the Gram Panchayat has given in writing that the plaintiff has no concern with the suit property and the same is the ancestral property of the defendant. Further it was pleaded that the police had also conducted inquiry into the matter on a complaint moved by the plaintiff. However, the complaint of the plaintiff was found to be false. Still further it was pleaded that the alleged agreement dated 02.06.2010 claimed by the plaintiff, is illegal, null and void and the same is forged and fabricated document. It was further claimed that Hardip Singh @ Hardev Singh is a non-existing person. Any such person has no right, title or interest in the suit property and therefore, could not have executed any agreement in favour of the plaintiff. Lastly, it was claimed that the plaintiff was never in possession of the suit property. It was denied that the defendant dispossessed the plaintiff from the suit property. It was claimed that, in fact, the defendant is the owner in possession of the suit property.

Parties led their evidence.

Besides examining himself as a witness, plaintiff also examined the official from the bank from where the money was paid to his vendor. The vendor was also examined by the plaintiff as PW-4. On the other hand, the defendant Ram Singh appeared himself as a witness and also examined Nambardar, Acchar Singh as DW-2. Still further the bill of water supply

was also proved on record by him.

After hearing learned counsel for the parties, the Trial Court dismissed the suit filed by the plaintiff. The reason given by the Trial Court is that the agreement dated 02.06.2010, on the basis of which the plaintiff claims the ownership of the suit property, and also claims restoration of the possession; is not a registered document. Therefore, the same can not be read into evidence as per the provisions of the Registration Act. Hence, it was held that the plaintiff has not led any evidence to prove his ownership over the suit property. Therefore, he can not seek possession of the same through the process of the Court.

Aggrieved against the judgment and decree passed by the Trial Court, the plaintiff filed appeal before the lower Appellate Court. However, the lower Appellate Court also dismissed the appeal filed by the present appellant.

Lower Appellate Court also reiterated the finding given by the Trial Court, on the same basis that since the only document claimed by the plaintiff to show his ownership is the agreement dated 02.06.2010 and the same is not a registered document. Therefore, this agreement can not convey any title in favour of the plaintiff; because no immovable property worth more than ₹100 can be sold, except through a registered sale deed.

Learned counsel for the appellant has argued that since the property is within the Lal Lakir of the village, therefore, there is no sale deed required for the transfer of the suit property. Still further it is his submission that the agreement in question, even if the same is taken as a document not conveying title, being not registered still the same can be read as a document whereby the owner has agreed to transfer the property to the

plaintiff and has handed over the possession of the same to the plaintiff, as well. Hence the plaintiff could have sought the possession back from the defendant who illegally dispossessed him.

Having heard learned counsel for the appellant this Court is of the considered opinion that there is no substance in the argument of learned counsel for the appellant. Admittedly, the alleged agreement dated 02.06.2010 is not a registered document. Therefore, that agreement does not grant any title in favour of the plaintiff/appellant. So far as the possession of the suit property is concerned; on that count also the plaintiff has failed to adduce any evidence to substantiate his possession. On the other hand, the defendant has produced the Nambardar of the village to show that he is in possession of the suit property. Even the Gram Panchayat has given in writing to the defendant that it is the ancestral property of the defendant and he is in possession of it. Still further, the water bill for the suit property has been produced by the defendant. Therefore, the lower Courts below have not committed any illegality or perversity in recording the findings and in dismissing the suit and the appeal filed by the plaintiff/appellant herein.

No other argument was raised by learned counsel for the appellant.

In view of the above, finding no merit in the appeal, the same is hereby dismissed.

6th November, 2017

Shivani Kaushik

Whether speaking/reasoned *Yes*

Whether Reportable *No*

[Rajbir Sehrawat]

Judge