

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

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RSA No.2893 of 2015 (O & M)
Date of Decision:06.12.2017

Avtar Singh and others

...Appellants

Versus

Dharam Pal

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.S. Uppal, Advocate
for the appellants.

ANIL KSHETARPAL, J.(Oral)

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

Plaintiff filed a suit for permanent injunction claiming that his father had purchased a house and an adjoining land vide sale deed dated 30.09.1970 from one Shri Buta Singh. It was further pleaded that the defendants want to encroach upon that *Ruri* and, therefore, suit for injunction has been filed.

In the written statement, the defendants pleaded that in fact, Buta Singh had disappeared from the village before 30.09.1970 and, therefore, the sale deed so claimed by the plaintiff is a forged and fabricated document.

Learned trial Court after appreciating the evidence available on the file, decreed the suit and held that the sale deed executed by Buta Singh in favour of father of the plaintiff stands proved.

Defendants filed first appeal. Learned First Appellate Court after re-appreciating the evidence available on the file, dismissed the appeal.

Learned First Appellate Court has also relied upon the admissions made by DW-2 and DW-4 to dismiss the appeal. The finding recorded by the learned First Appellate Court in this respect is extracted as under:-

“ On the other hand, the defendants/appellants took the plea that the sale deed dated 30.09.1970 is a forged and fabricated document and they are in possession of the ruri in question from the time of consolidation. From the cross examination of DW2, it is evident that he has admitted that earlier Buta Singh was in possession of the ruri in question bears Khasra No.1165 and that Som Nath had purchased the house from Buta Singh. He also admitted that ruri in question bearing Khasra No.1165 was allotted to Buta Singh. DW3 has further admitted that ruri bearing Khasra No.1166 was allotted to Surjit Singh. He also admitted that Buta Singh had sold the house to the plaintiff/respondent. DW4 Hari Kishan examined by the defendants/appellants in support of their case has also admitted that ruri in question bearing Khasra No.1165 was allotted to Buta Singh at the time of consolidation and that Buta Singh had sold the house to the plaintiff.”

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

Learned counsel for the appellants has submitted that infact the

filed by the plaintiff was not maintainable.

It may be noticed that the defendants had not taken this plea before the Courts below. No issue in this regard was framed. Nagar Panchayat is not a party to this litigation. Prima facie the plaintiff is owner of the land in view of sale deed dated 30.09.1970.

Learned counsel for the appellants could not point out any misreading and non-reading of evidence by the Courts below.

In view of the discussion made above, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Hence, this regular second appeal is dismissed.

06.12.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No