

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 101

RSA-3256-2015 (O&M)

Decided on : 28.09.2017

Om Parkash

..... Appellant

VERSUS

Parwati and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms.Bhavna Grewal, Advocate,for the appellant.

DEEPAK SIBAL, J. (ORAL)

The appellant, who was the original plaintiff, had approached the Trial Court through a suit seeking partition of the suit property so described in the plaint. Relief of permanent injunction to restrain the respondents from alienating the suit property was also sought.

The case set up by the appellant before the Trial Court was that the suit property was earlier owned by his father Ganga Ram and the appellant became the owner thereof through judgment and decree dated 20.01.1988 passed by the Senior Sub Judge, Bhiwani. The appellant alleged that his father had given some portion of the suit property to his relative who was the predecessor-in-interest of the respondents for the reason that his relative did not have any other place to accommodate his family with a clear understanding that possession of the afore-referred portion would be handed back to Ganga Ram by his relative on demand. However, after the death of his relative, the respondents, on demand, had refused to hand over the afore-referred portion of the suit property leading to the filing of the suit.

The respondents appeared before the Trial Court and submitted that they were owners in possession of the suit property. It was further their case that the appellant or his father had no right over the suit property. The father of the respondents had filed a civil suit No.419 of 1991/1992 which was decreed on

22.10.1997 and appeal against that judgment and decree was also dismissed. In that case the father of the appellant had admitted that the respondents were residing in the suit property for the last 42/43 years.

The Trial Court finding no merit in the appellant's suit dismissed the same and the appeal preferred by the appellant against such dismissal met the same fate as his suit, giving him a cause to knock the doors of this Court through the present second appeal.

A clear admission is found on record by the appellant that the suit property was given to the predecessor-in-interest of the respondents by the appellant's father without any written terms & conditions. The appellant could not prove that the possession was given to the respondents only for a particular period. On the other hand, the respondents through leading of cogent evidence, proved themselves to be in established possession of the suit property by tendering and proving documents which had come into being when a dispute had arisen with the neighbour with regard to the suit property. The respondents' established possession over the suit property thus was concurrently found by both the Trial Court as also the Appellate Court to be permissive.

No argument was raised by learned counsel for the appellant which would persuade me to take a view contrary to the concurrent findings recorded by both the Trial Court as also the Appellate Court.

In view of the above, no question of law much less any substantial question of law arises in the present appeal warranting interference in the concurrent findings returned by both the Trial Court as also the Appellate Court.

Dismissed.

28.09.2017
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No