

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

Date of decision : 31.07.2017

1.

RSA No.4498 of 2015 (O&M)

Sukhchain Singh and another

..... Appellants

versus

Vidya Devi and another

..... Respondents

2.

RSA No.4499 of 2015 (O&M)

Sukhchain Singh and another

..... Appellants

versus

Vidya Devi and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. G.P.Vashisht, Advocate
for the appellants.

AJAY TEWARI, J.(ORAL)

This order shall dispose of above mentioned two appeals.

These appeals have been filed against the concurrent decision of the Courts below whereby they have held that the appellants have not been able to prove that they are in adverse possession of the property in dispute. The respondents had filed a suit for possession and mandatory injunction against the appellants claiming that she was the owner of the suit

property (having inherited from her father-Ami Chand) and taking advantage of the fact that she was settled in her matrimonial home the appellants had encroached upon the property and had built their houses about 2 ½ years ago. The appellants filed a written statement in which they took up two pleas. Their first plea was that their predecessor-in-interest had purchased the property from Ami Chand on 23rd Maghar Sangrandi, 1915 by document Ex.DA. In the very next breath they took the plea that they were in adverse possession of the property. Before the evidence commenced they moved an application under Order 6 Rule 17 CPC in which they pleaded that actually the document Ex.DA pertain to some other property and consequently they abandoned their claim with regard to the sale.

Resultantly the onus fell upon them to prove that their possession was adverse. Both the Courts below noticed that they had not been able to discharge this onus. They produced two witnesses apart from themselves but both the Courts came to the conclusion that the statements of these four witnesses nowhere proved that they were in possession from 23rd Maghar Sangrandi, 1915. The trial Court, however, held that they were in permissive possession and consequently rejected the plea of the respondents for mandatory injunction. In an appeal filed by the respondents the lower Appellate Court held that once the document Ex.DA was not connected to the suit property the appellants had led no evidence to prove that Ami Chand had ever handed over possession to them. He consequently

allowed the appeal of the respondents on this score also and held that the appellants would at best be entitled to the costs of their construction.

Further counsel for the appellants has not been able to show me how these findings are vitiated in any manner and can not show any material evidence which may have been ignored by the Courts below.

Both the appeals are dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

31.07.2017
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No