

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

**RSA No.6040 of 2016 (O&M)
Date of Order: 27.10.2017**

Davinder Singh and others

..Appellants

Versus

Atma Ram

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Nagar, Advocate,
for the appellants.

ANIL KSHETARPAL, J(Oral)

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

Plaintiffs claim that they are owner in possession of the property in dispute, which is situated within the “Abadi” of the village.

It is conceded by learned counsel for the appellants that no document of title was produced by the plaintiffs to prove their ownership.

Both the Courts have held that the demarcation carried out by the Local Commissioner was without any notice to the defendant.

Learned counsel for the appellants could not produce any document to show that before carrying out demarcation Local Commissioner have ever informed the defendant.

Learned first appellate Court has also relied upon the earlier judgments and orders passed by the authorities in favour of the defendant. Paragraph 11 of the judgment passed by the first appellate Court is extracted as under:-

“11. A horde of documentary evidence relied upon by

Atma Ram, gist whereof would reveal as under:-

Ex.D-1 is certified extract from jamabandi qua suit property for the years 2002-03 which proclaims defendant to be in possession of suit property as Gair Marusi.

Same picture is portrayed in entries of khasra Girdwari from crops of Sawni 1999 to Hari 2007, Ex.D-2.

Ex.D-3 and Ex.D-4 are copies of judgment and decree sheet delivered by the Court of Sh. B.S.Mehandiratta, the then Sub Judge Ist Class, Nawanshahr, on 2.8.1982 in a suit titled as "Atma Ram v. Shaminder Singh and others, holding Atma Ram to be in possession of the property Forming subject matter of that suit.

Ex.D5 and Ex.D-6 are copies of judgment and decree sheet delivered by the Court of Sh. N.C.Khichi, the then Ld. Additional District Judge, Jalandhar, on 15.9.1982 dismissing appeal brought against Ex.D-4 and Ex.D-5.

Ex.D-6 is copy of an order passed by Sub Divisional Magistrate, Nawanshahr on 13.12.1989 dismissing application under Section 145 Cr.P.C., brought at the instance of Station House Officer, Police Station Nawanshahr holding Atma Ram to be in possession of the suit property.

Revision brought against Ex.D-6, order dated 13.12.1989, was dismissed, vide Ex.D-7, by the Court of Mrs. Bakhshish Kaur, the then ld. Additional Sessions Judge, Jalandhar, on 11.2.1992.

Ex.D-8 is just but another copy of Ex.D-5 and Ex.D-10 is another copy of Ex.D-3”.

Learned counsel for the appellants could not dispute that such evidence was produced and in those proceedings defendant was held entitled to this property.

Taking into consideration the aforesaid facts, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below. The regular second appeal is dismissed.

October 27, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No