

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

RSA No.4677 of 2015 (O & M)  
Date of decision :21.09.2017

Chaman Lal and another

...Appellants

Versus

Chandi Ram and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Amit Dhawan, Advocate  
for the appellants.

**ANIL KSHETARPAL, J. (Oral)**

**CM No.11257-C of 2015**

Application is allowed.

Deficiency in Court fee has been made good. Delay, if any is  
condoned.

**CM No.11258-C of 2015**

Allowed as prayed for.

**Main Case**

Defendants are in Regular Second Appeal against the  
concurrent findings of fact arrived at by the Courts below.

Plaintiff-Chandi Ram had filed a suit for possession against his  
son, daughter-in-law and some other defendants. Plaintiff had claimed that  
he is owner of the property and defendant Nos.1 and 2 took forcible  
possession of the portion of the property shown in sky-blue colour in the  
attached lay out plan with the plaint. The possession of the defendants is  
illegal, unauthorized and forcible.

Defendants, on the other hand, filed a written statement denying that the plaintiff is owner of the property. Defendant further pleaded that defendant Nos.1 and 2 are also owners of the property.

Learned trial Court after appreciating the evidence available on the file, held that the property is owned by the father i.e. plaintiff-Chandi Ram and defendants have no right title or interest in the property. On the basis of this finding, the suit filed by the plaintiff for possession was decreed.

Two appeals were preferred. One by son and daughter-in-law and other by other defendants. Both the appeals were heard together.

Learned First Appellate Court after re-appreciating the evidence available on the file, dismissed the appeals and upheld the finding of fact arrived at by the trial Court.

Learned counsel for the appellants has submitted that now Chandi Ram has died and, therefore, they have become co-owners. He has further submitted that the property is ancestral and, therefore, appellants were having right by birth.

I have considered the submission of learned counsel. However, I do not find any force in the same.

Plaintiff had filed a suit for possession on 19.09.2007. The rights between the parties were crystalized on the day of the institution of suit. The old man kept on fighting for possession of his house through out his life. He, unfortunately, had to fight against his son and daughter-in-law.

Now merely because the plaintiff has died, the suit filed by the plaintiff

(since deceased) would be inherited in accordance with law. However, the defendants have no right to stay in the aforesaid house.

Next argument of learned counsel is that the property is ancestral. I have seen the issues framed by the Courts below but no issue with respect to the property being ancestral was framed by the trial Court. In this regular second appeal, the appellants cannot be permitted to raise such plea for the first time in this Court.

For the reasons recorded above, I do not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Hence, the regular second appeal is dismissed.

21.09.2017  
*sheetal*

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether Speaking/reasoned : Yes  
Whether Reportable : No