

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

**RSA No.486 of 2015 (O&M)
Date of Order: 26.09.2017**

Kapoor Singh

..Appellant

Versus

Kamla and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harish Nain, Advocate,
for the appellant.

ANIL KSHETARPAL, J (Oral)

Plaintiff is in regular second appeal against concurrent findings of fact arrived at by the Courts below.

Plaintiff had initially mortgaged the suit property to one Shri Mahender Singh vide mortgage deed dated 07.02.1989. Thereafter plaintiff-appellant had sold the suit property by a registered sale deed in favour of Mahender Singh on 28.02.1990. Mahender Singh thereafter sold the property further.

Plaintiff filed a suit for declaration and permanent injunction seeking cancellation of sale deed, mutation, subsequent sale deed executed by Mahender Singh and Court decree.

Both the Courts have concurrently found that the suit filed by the plaintiff was barred by limitation. The suit was filed after a period of 18 years. Both the Courts have further found that the plaintiff has failed to produce any evidence in support of his case.

Learned counsel for the appellant has submitted that in the sale

deed, residential house has not been mentioned and therefore the residential house cannot be treated as part of the property sold.

I have considered the submission of learned counsel for the appellant. The residential house is admittedly on the land, which has been sold. Once a piece of land has been sold, any immovable property attached thereto would always be part of the sale deed.

Learned counsel for the appellant has further submitted that no demarcation was carried out.

In the present case, the property sold is specified and identified by khasra numbers. There is no dispute about the identity of the property. Therefore, there was no need to any demarcation.

Learned counsel for the appellant has further tried to point out by picking one line in the oral evidence to state that the sale deed was only with respect to agricultural land.

Once the documentary evidence is available that also a registered sale deed, which has the presumption of truth, small variation in the oral evidence would not adversely effect the case of the defendant.

In view of what has been recorded hereinabove, I do 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.

September 26, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No