

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

RSA No. 6818 of 2016 (O&M)

Date of Decision: 22.11.2017

DAVINDER SINGH

-APPELLANT

VS

BHUPINDER KAUR AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Satpreet Grewal Kapila, Advocate,
for the appellant.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Defendant is in second appeal in a suit for possession and permanent injunction. Earlier suit land was owned and possessed by Gurdial Singh, father of the plaintiff and defendants No.2 to 4. Gurdial Singh died in June, 1997. Mother of the plaintiff died in the year 2007.

[2]. Plaintiff and defendants No.2 to 4 inherited the suit property to the extent of 1/4th share. The joint suit property was not partitioned. Plaintiff and defendants No.2 to 4 became co-sharers in the joint land.

[3]. Defendant No.1 has a residential house on three sides of the suit property. Defendant No.1 filed civil suit No.152 dated 08.04.1987 against Gurdial Singh for specific performance on the basis of agreement to sell dated 13.07.1986

(Ex.D1). The suit was dismissed vide judgment and decree dated 11.10.1988 (Ex.P5 and Ex.P6) holding the agreement to sell to be fraudulent.

[4]. Defendant No.1 could not prove his title as well as possessory right on the basis of alleged agreement to sell dated 13.07.1986 (Ex.D1). Filing of suit on the basis of alleged agreement to sell implied that defendant No.1 had admitted title of the plaintiff over the suit property.

[5]. The defence taken by the defendant-appellant that the plaintiff being a married daughter of Gurdial Singh was having no possessory title over the suit property was negated by the Courts below with reference to the findings recorded on the non-ancestral nature of the property.

[6]. Having lost the litigation arising out of suit for specific performance on the basis of possessory right of defendant No.1, both the Courts below, in my considered opinion, have not committed any error of jurisdiction and the findings recorded thereunder cannot be held to be suffered with any perversity.

[7]. No question of law worth cognizance of this Court is involved in the present appeal.

[8]. Accordingly, the present regular second appeal is, dismissed.

CM No.17775-C-2016

Since the main appeal has been dismissed on merits, therefore, there is no necessity of passing any order in the application for condonation of delay.

22.11.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No