

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

RSA No.1230 of 2017 (O&M)

Date of decision : 18.08.2017

Bhup Singh and others

...Appellants

Versus

Bimla and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Narender Kaajla, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

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

The plaintiffs had filed a suit for possession with respect to the area measuring 19 square yards and 45 square yards in khasra No.496 situated in the Village Gorchi, District Hissar. The plaintiffs had claimed that they were owners of the property as husband of the plaintiff No.1 had purchased the property from one Sher Singh through sale deed dated 06.04.1984.

The suit was contested by the defendants. It was alleged that the plaintiffs are relying upon the demarcation report which is not in accordance with the revenue manual.

The learned trial Court after appreciating the evidence available on the file and after examining the demarcation report which is Ex.P2 on the

file, decreed the suit filed by the plaintiffs. The First Appeal preferred before the learned District Judge by the appellants has also been dismissed after re-appreciating the evidence.

Learned counsel for the appellants has submitted that the demarcation was carried out without any notice to the appellants, therefore, the demarcation report cannot be relied upon. He has further submitted that the demarcation report is antedated as on the demarcation report, the date has been mentioned as 02.03.2009, although, the application for demarcation was moved on 16.03.2009.

I have considered the submission of learned counsel.

In the present case, the plaintiffs before filing the suit got the property demarcated from the revenue official. The revenue official after complying with the instructions issued by the State Government demarcated the area. Thereafter, the suit was filed. The defendants did not take any step to get the land demarcated and prove before the Court that there is no encroachment. The demarcation report was proved by Kalyan Singh, Retired Kanungo who was examined as PW3. The defendants were given opportunity to cross-examine. However, Kalyan Singh stood his ground. In these circumstances, the Court was justified in decreeing the suit.

Next argument of learned counsel for the appellants is that the demarcation report is antedated. I have seen the demarcation report. The Kanungo had signed with date 02.03.2009. However, when Kanungo appeared, he submitted that there is a mistake and in fact, date should have been 02.04.2009. Both the Courts have considered this aspect and found that, it is an inadvertent mistake.

In view of the above, I do not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts.

Regular Second Appeal is dismissed.

All pending miscellaneous applications are disposed of, in view of the abovesaid judgment.

18.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No