

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

RSA No.2053 of 2017 (O & M)
Date of decision :27.09.2017

Santra

...Appellant

Versus

Parvesh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parmod Parmar, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

CM No.4937-C-2017

For the reasons stated in the application, which is duly supported by an affidavit, delay of 342 days in filing the appeal is condoned.

Application is allowed.

Main Case

Defendant is in Regular Second Appeal against the judgment passed by the learned Additional District Judge, Jhajjar.

Plaintiffs-Parvesh and Pawan had filed a suit for permanent injunction with a consequential relief of mandatory injunction. Plaintiffs had pleaded that they are owners in possession of a residential house measuring 363 square yards. It is the case of the plaintiffs that the aforesaid property was purchased from the defendant and her other family members vide sale deed dated 13.08.2004. However, the defendant is trying to encroach upon certain portion of the property, which is part of the plot sold to the plaintiffs.

without looking into the admission made by the defendant-appellant in her cross-examination. In an appeal filed before learned Additional District Judge, Jhajjar, the admission made by the defendant was noticed and examined and, therefore, the suit filed by the plaintiffs was decreed.

I have heard learned counsel for the appellant at length and with his able assistance gone through the judgments passed by the Courts below.

Learned counsel for the appellant has produced before me a photocopy of the written statement filed by the defendant and a copy of the statement given by the defendant-appellant in the trial Court.

Learned counsel for the appellant has submitted that the plaintiffs are claiming rights in the property beyond the property, purchased by them. He submits that there is no dispute with regard to property which was sold by the defendant-appellant and her family members vide sale deed dated 13.06.2004 to the plaintiffs.

As noticed earlier, learned counsel for the appellant has produced before me a photocopy of the written statement filed by the defendant-appellant. A reading thereof would show that no such plea was taken by the defendant before the trial Court. I have even gone through the statement given by defendant-appellant when she appeared in the witness-box as DW-1 she has not stated that the plaintiffs are claiming certain portion, which is beyond the property purchased by them.

It is an open and shut case. Plaintiffs had purchased the property from defendant and her family members. They had purchased the property measuring 363 square yards vide sale deed dated 13.06.2008. Plaintiffs were wanting to protect their possession with respect to the

Learned counsel for the appellant could not point out any error in the judgment passed by the learned First Appellate Court.

In view thereof, I do not find any good ground to interfere with the concurrent findings of fact arrived at by the learned First Appellate Court.

Hence, this regular second appeal is dismissed.

27.09.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No