

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

135

RSA No.3302 of 2017 (O&M)
Date of decision: 11.09.2017

Jagdish Singh and others

..... Appellants

Versus

Seeta Devi

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Jagjit Gill, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendants are in regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff filed a suit for mandatory injunction directing the defendants to restore the suit property to original position i.e. by constructing a haveli/cattle room in the land measuring 1 and ½ marla.

Plaintiff is wife of brother of defendants No.1 and 2. Initially, the plaintiff filed a suit for permanent injunction claiming that the suit property is part of abadi deh and her husband had constructed a cattle room/haveli in the suit property. It is claimed by the plaintiff that the aforesaid construction was demolished by the defendants during the pendency of the suit. She moved an application before the police. Thereafter, she amended her suit and sought relief of mandatory injunction.

Defendants contested the suit and submitted that the plaintiff has no concern with the suit property. It was claimed that father of defendants No.1 and 2 had constructed a room upon 1 and ½ marla on the suit property.

Defendants had further claimed that mother of defendants No.1 and 2 had sold the suit property through an agreement dated 06.07.2009.

Learned trial Court after appreciating the evidence available on the file decreed the suit filed by the plaintiff holding that the plaintiff was in possession of the property and it has been demolished during the pendency of the suit.

First appeal preferred by the defendants was also dismissed after re-appreciating the evidence available on the file.

Learned counsel for the appellant has contended that the plaintiff has not been able to prove her ownership regarding the suit property. She has also failed to prove her exclusive possession of the property.

The present suit is only for injunction. The ownership of the property is not to be decided in a suit for injunction.

Both the Courts have concurrently found that there was some construction on the suit property which has been demolished by the defendants. In these circumstances, the Courts have decreed the suit and directed the defendants to restore the building to the original position. The judgments passed by the Courts below are after appreciating the evidence which is not shown to erroneous.

Learned counsel for the appellants could not point out any substantive misreading of evidence enabling this Court to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

11.09.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No