

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

RSA No.1983 of 1987 (O&M)

Date of decision: 06.07.2018

Jagdish

..... Appellant

Versus

Rugha and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.K. Chauhan, Advocate
for the appellant.

Mr. H.N. Methani, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Defendant-appellant is in the regular second appeal against the judgment passed by the learned First Appellate Court reversing the judgment and decree passed by the learned trial Court.

In the considered opinion of this Court, the following substantial question of law needs determination:-

“Whether a lay out plan can be used to record a finding with regard to title of the property.”

Plaintiff filed a suit for possession claiming that he is owner in possession of the house in dispute although he has sold the adjoining plot to Sh. Jagdish-appellant vide registered sale deed dated 15.02.1979 Ex.D-1 on the record. The plaintiff pleaded that he was owner of the adjoining plot which has been forcibly occupied by the defendant-appellant in June, 1979.

In the written statement, the defendant contested the suit and pleaded that

brother of the plaintiff Sadhu Ram also filed a previous suit which was dismissed on 21.09.1982 affirmed in first appeal.

Learned trial Court after appreciating the evidence dismissed the suit filed by the plaintiff after recording a finding that the plaintiff has failed to prove that he was ever owner of the adjoining property. However, the learned First Appellate Court relying upon a lay-out plan produced by the plaintiff reversed the aforesaid finding. To determine the title of immovable property, documents of title can be the evidence. The lay-out plan cannot be considered as a document of title. It was for the plaintiff to prove that he was ever owner of any other piece of adjoining land to the property which was admittedly sold by him. Ex.D-A is a sale deed admittedly executed by the plaintiff. While describing the property on all four sides of the property sold, on East it has been referred to as house of Sadhu, Carpenter i.e. brother of the plaintiff. On West, it is depicted as plot of Sadhu again brother of the plaintiff. On North, it is depicted as public street whereas on the South, it is mentioned as well and Johar is located. Had the plaintiff owner of any adjoining property, he would have referred to it in the sale deed which has been executed upon by him in favour of the defendant-appellant. Still further, Sadhu, the brother of the plaintiff filed a suit against Chander etc. wherein it was claimed that the entire property belongs to them in the aforesaid suit, the Court dismissed the suit on the ground that brother of the plaintiff in the aforesaid suit had claimed the property to be ancestral property whereas brother of the plaintiff failed to prove that. The appeal filed against the judgment was also dismissed.

In view of the aforesaid, the question as framed earlier, is answered in favour of the appellant.

Hence, the judgment and decree passed by the learned First Appellate Court is set aside.

The pending miscellaneous applications, if any shall stands disposed of accordingly.

Regular Second Appeal is allowed.

06.07.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No