

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2025-1988(O&M)

Date of Order:30.11.2018

M.C.Morinda

..Appellant

Versus

Krishan Chand and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Tarun Vir Singh Lehal, Advocate,
for the appellant.

Mr. Ritesh Aggarwal, Advocate,
for the respondents.

ANIL KSHETARPAL, J (Oral)

Learned counsel appearing for the respondents-plaintiffs has filed a copy of the lay out plan produced in the previous litigation decided in 1964 and has submitted that the aforesaid property was different than the property involved in the present suit.

Learned counsel appearing for the appellant-Municipal Committee, Morinda, has no objection to the lay out plan being taken on record in additional evidence. Hence, it is exhibited as C1. Counsel for the Municipal Committee does not wish to produce any evidence in counter to the evidence produced.

Registry is directed to assign number to the application.

MAIN

With the consent of learned counsel for the parties, arguments have been heard in the appeal.

Defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

Plaintiffs filed a suit for possession by directing removal of the flooring bricks on a plot measuring 15 feet x 34 feet with the assertions that their father Devi Dayal purchased the property in execution of a court decree held in the year 1941 and after confirmation of the sale, sale certificate was issued. However, Municipal Committee is treating this property to be their own and have laid a floor of bricks.

Defendant- Municipal Committee pleaded that in the 2 previous suits filed by the plaintiffs or their predecessors, they have lost litigation and, therefore, they are not entitled to any decree.

Both the courts after examining the evidence have found that the earlier litigation is not between the Municipal Committee and the respondents-plaintiffs or their predecessors and the plaintiffs have successfully proved that the property purchased in a court auction is their personal property and does not belong to Municipal Committee.

It may be noted that the first litigation went against Devi Dayal, father of the plaintiffs, on the ground that they were not able to produce sale certificate. Whereas the second suit was between Devi Dayal and Chuhru and others for permanent injunction instituted in the year 1963, decided in 1964. As per the lay out plan produced in additional evidence, it is apparent that the property in dispute in the previous litigation was different than what is subject matter of the present suit. Municipal Committee has failed

to prove any document on the file to prove that the property vests in
Municipal Committee.

Hence, this court does not find any good ground to interference.

The regular second appeal is dismissed.

November 30, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/Noi