

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

**(1) RSA-816 of 1988(O&M)
Date of Order:22nd October, 2018**

Bant Gir (since deceased) through LR Chela Sant Gir and others

..Appellants

Versus

Municipal Committee, Khanna and another

..Respondents

(2) RSA-817 of 1988 (O&M)

Bant Gir (since deceased) through LR Chela Sant Gir and others

..Appellants

Versus

Jagan Nath and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Salil Sagar, Senior Advocate, with
Mr. Sankalp Sagar, Advocate,
Mr. Sunil Kumar, advocate,
for the appellants.

Mr. R.S.Modi, Advocate,
for the respondents.

ANIL KSHETARPAL, J (Oral)

These two appeals is with respect to land owned by Municipal Committee, Khanna. Although, the plaintiff alone had filed a suit, however, when Municipal Committee filed a suit, they impleaded the plaintiff in the previous suit as well as his wife as defendants.

Plaintiff-appellant has already lost in two courts. Plaintiff-appellant claims that he has perfected his title by way of adverse possession.

Both the courts after examining the evidence have found that the possession of the plaintiff-appellant who is defendant in the connected suit is not proved before 1972. Other suit has been filed by Municipal Committee for possession which has been decreed.

It may be noted that originally plaintiff-appellant had filed a suit for permanent injunction with respect to land comprised in khasra No.2292, 2293 and 2294. In Khasra No.2293, a temple exists and the Municipal Committee has already made a statement that this khasra number does not belong to the Municipal Committee, before the courts below.

During the pendency of the appeal i.e. on 15.10.2018, counsel for the appellants on instructions from Mr. Kashmir Git, legal heir of the original appellant has made a statement that he is not in possession of land comprised in Khasra No.2292. Hence, the only dispute which requires adjudication is with respect to land comprised in Khasra No.2294 measuring 1 kanal. It is not in dispute that in the revenue record, owner is Municipal Committee, whereas it has been described as a 'Pond'. Although, plaintiff has pleaded that there are certain "Samadhies" of his Gurus in the land in dispute, however, revenue record does not support the aforesaid assertion. The courts have found that the plaintiff has failed to prove that he has perfected his title by way of adverse possession for a continuous period of 12 years as the suit was filed on 17.07.1982, whereas the first entry in favour of the plaintiff is of the year 1972. Still further, for proving acquisition of title by way of adverse possession, plaintiff is required to prove the date when his possession became adverse. Mere long possession does not result in conferment of title unless the plaintiff has proved *animus possidendi*.

Learned senior counsel for the appellants has relied upon a judgment passed by the Hon'ble Supreme Court in the case of *P.T.Munichikkanna Reddy and others v. Ravamma and others, (2007) 6 Supreme Court Cases 59* to support his contention. On careful reading of the aforesaid judgment, it is apparent that the Hon'ble Supreme Court was dealing with entirely different fact situation and the court found that possession of the appellant was not proved to be adverse.

This court has examined the record and has found that the land in dispute is situated at a junction where two roads meet. Since the plaintiff has failed to prove his possession for a continuous period of more than 12 years, plaintiff cannot claim that he has perfected his title by way of adverse possession. As noticed above, Municipal Committee has also filed a suit for possession.

Although, lengthy arguments were addressed by learned senior counsel, however, learned counsel for the appellants could not draw attention of the court to any evidence which prove adverse possession of the plaintiff-appellant for a period of more than 12 years before the filing of the suit. Learned counsel has submitted that there are certain 'Samadhies" of his Gurus, which have been constructed in the land in dispute, however, the aforesaid argument of learned counsel is not supported by any substantive evidence.

It may further be noticed that the plaintiff has not appeared in the evidence. He has examined his wife. Since, plaintiff is claiming adverse possession, therefore, it was incumbent upon the plaintiff to appear in evidence and face cross-examination. No one can be divested of title on the basis of assumption only. Plaintiff was required to prove his case as

pleaded, however, plaintiff has failed to prove.

In view thereof, this court does not find any good ground to interfere.

Both the regular second appeals are dismissed.

22nd October, 2018
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(ANIL KSHETARPAL)
JUDGE

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