

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

RSA No.1526 of 1989 (O&M)

Date of decision : 19.03.2018

Malkiat Singh and others

...Appellants

Versus

Virender Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Keshav Partap Singh, Advocate for the appellants.

Mr. Harish Chhabra, Advocate for
Mr. Rahul Deswal, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The defendants-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff-respondent had filed a suit for return of the dowry articles, as also for recovery of articles which are mentioned as Istridhan.

The suit was filed for a sum of ₹40,000/-.

The defendants contested the suit and pleaded that the articles belong to the defendants and these articles were given to the plaintiff. The plaintiff has never returned these articles.

The trial Court after appreciating the evidence available on the file, decreed the suit for ₹38,450/-. An appeal filed by the defendants was also dismissed with costs.

This Court has heard the arguments of the learned counsel for the parties and with their able assistance gone through the record.

Learned counsel for the appellants has vehemently argued that the Court at District Sirsa had no jurisdiction because after marriage, the parties had started residing at District Hisar. He submits that the suit could only be filed within the territorial jurisdiction of District Hisar.

On the other hand, learned counsel for the respondent-plaintiff has pleaded that the entrustment has taken place within the territorial jurisdiction of District Sirsa and, therefore, the jurisdiction would be only with the Court at District Sirsa.

This Court has considered the submissions. The decision of the suit on the merits can be set aside on account of lack of territorial jurisdiction only in case the party adversely affected is able to prove the prejudice caused. In the present case, both the parties have contested the suit on merits and it is not in dispute that District Hisar and District Sirsa are adjoining Districts. Still further, the marriage took place within the territorial jurisdiction of District Sirsa. In view thereof, there is no substance in the first argument of the learned counsel for the appellants.

Learned counsel for the appellants has further submitted that some of the defendants proceeded ex parte and their application under Order 9 Rule 13 CPC is pending.

In the considered opinion of this Court, pendency of such application would not debar the Court from deciding the appeal which is pending in this Court for the last 29 years.

Both the Courts below on appreciation of the evidence,

recorded a finding which is neither shown to be perverse nor result of misreading of the evidence.

In view thereof, there is no scope for interference in the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

19.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No