

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

358

RSA No.2499 of 1989 (O&M)
Date of decision: 23.01.2018

Dalip Singh

..... Appellant

Versus

Harpal Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. G.S. Punia, Sr. Advocate with
Ms. Lovepreet Kaur, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the appeal against the judgment passed by the learned First Appellate Court.

Plaintiff had filed a suit for permanent injunction claiming himself to be in adverse possession of the property. He had claimed that his possession should not be interfered with by the defendants. On the other hand, the defendants claimed that they have purchased the property vide sale deed dated 13.03.1985 and the plaintiff has taken over the possession under the garb of temporary injunction of status quo granted by the Court. The defendants further filed counter claim claiming that they should be restored with the possession of the property. The trial Court decreed the suit by holding that the plaintiff is in the possession and the defendants have not led any evidence to prove that they were dispossessed during the pendency of the suit.

The defendants filed the first appeal. Before the learned First Appellate Court, they also produced on file copy of mutation Ex. D-X proving that their vendor Sukhdev Singh had purchased the property from Sampuran Kaur. Even in the Jamabandi, there is a reference to mutation

No.2057 which is already part of the trial Court record. Mutation No.2057 is sanctioned by the revenue authorities pursuant to the sale deed executed by Sampuran Kaur in favour of Sukhdev Singh.

Thus, the learned First Appellate Court accepted the appeal and passed a decree of possession on the basis of counter claim.

I have heard learned counsel for the appellant at length and with his able assistance gone through the judgments passed by the Courts below as well as the records.

Learned counsel for the appellant has submitted that mutation Ex. D-X is only making an entry of the sale in the cultivation column. Therefore, the sale by Sampuran Kaur in favour of Sukhdev Singh is not proved. If we read the mutation in entirety, it is clear from the remark column that Sampuran Kaur had sold the property for a consideration of Rs.1,000/- in favour of Sukhdev Singh and that is how the entry was made in favour of Sukhdev Singh. Sukhdev Singh had in turn sold the property in favour of the defendants vide sale deed dated 13.03.1985. The sale deed dated 13.03.1985 has been produced on the file.

Plaintiff has only claimed injunction on the basis of adverse possession whereas the defendants have set up their title on the basis of a registered sale deed and by way of additional evidence proved before the learned First Appellate Court, also proved title of their vendor.

In these circumstances, this Court does not find any good ground to interfere with the finding of fact arrived at by the First Appellate Court.

Appeal is dismissed.

23.01.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No