

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

RSA No.1266 of 1991 (O&M)
Date of decision : 06.03.2018

Tek Chand and others

...Appellants

Versus

Balbir @ Rulia and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S. Bali, Sr. Advocate with
Mr. Parminder Walia, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

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

The plaintiffs initially had filed a suit for permanent injunction which was later on amended and relief of possession was added. The plaintiffs claimed that they are owners in possession of the house in dispute whereas it is the case of the defendants that Maru Ram, predecessor-in-interest of the plaintiffs and Bal Mukand, predecessor-in-interest of the defendants had exchanged the house in the year 1945.

Both the Courts below after appreciating the evidence available on the file, dismissed the suit filed by the plaintiffs after

recording the finding that the oral exchange which was permissible in the State of Haryana is proved on the file.

Learned counsel for the appellants has vehemently argued that Bal Mukand had purchased a plot from Pehlad Singh son of Ramnath Singh on 03.01.1920.

Learned counsel for the appellants argued that in fact Bal Mukand had not purchased the house but had only purchased the plot. He submits that a reading of the sale deed shows that Kisna Mahajan who was predecessor-in-interest of the plaintiffs was owning the adjacent house and, therefore, Bal Mukand predecessor-in-interest of the defendants did not purchase the constructed house.

With the assistance of the learned counsel, this Court has gone through Ex.D1 sale deed of the year 1920. It is clearly recorded in the sale deed that the plot in question is owned by Pehlad Singh whereupon Kisna Mahajan has raised certain construction.

Learned counsel for the appellants wanted to suggest that the plot was separate and the house constructed by Kisna Mahajan was separate. However a careful reading of the sale deed does not support the arguments of the learned counsel for the appellants. The sale deed is clear. It is clearly recorded that the plot belongs to Pehlad Singh on which some construction has been raised by Kisna Mahajan and that property is being sold.

In view thereof, there is no scope for interference with 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.

06.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No