

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

**RSA No.2504 of 1999 (O&M)
Date of Order:08.05.2018**

Kashmira Singh

..Appellant

Versus

Sadhu Singh

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.G.S.Punia, Sr. Advocate, with
Mr. Jagmit Kalia, Advocate,
for the appellant.

ANIL KSHETARPAL, J (Oral)

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

Although, as per office report, Gurdev Singh has not been served, however, taking into consideration that Gurdev Singh did not appear after filing the written statement either before the trial court or before the first appellate court and Gurdev Singh is a vendor, who is not left with any right, title or interest, this court with the consent of learned counsel for the appellant proceeded to hear the final arguments.

Dispute in the present case is with regard to small piece of land i.e. 3 marlas, which is being used a manure pit. Gurdev Singh was the original owner. Plaintiff claims that Gurdev Singh executed three sale deeds in his favour in the year 1965 for a consideration of Rs.99/- each. Plaintiff, thus, claims that he is owner in possession of the property in dispute. Plaintiff also sought declaration that subsequent sale deed executed

by Gurdev Singh in favour of the predecessor of the defendant-appellant Karnail Singh does not effect his rights.

On the other hand, defendant pleaded that he is owner of the property pursuant to a registered sale deed and is a bonafide purchaser.

Both the courts, after returning a finding that the sale deeds executed by Gurdev Singh in the year 1965 are proved on file, decreed the suit while noticing that the possession of the plaintiff is recorded in the khasra girdwaris as a purchaser from 1975 to 1981. Both the courts have further found that the plaintiff is in possession of the property and the defendants did not produce Gurdev Singh, their vendor in the evidence to prove their case.

Learned counsel for the appellant has vehemently argued that khasra girdwari entry does not carry any presumption and, therefore, such revenue record cannot be relied upon. He has further submitted that the plaintiff had in fact filed an application for correction of khasra girdwari but the same was dismissed. He submitted that once the aforesaid order has become final, therefore, the finding of the courts below that the plaintiff is in possession is erroneous. He has also submitted that the entries from 1975 to 1981 are only stray entries.

This court has considered the submissions of learned counsel for the appellant.

In the present case, all the parties are residing in the same village. Plaintiffs had filed a suit on the basis of three sale deeds executed in the year 1965. No doubt, these sale deeds are unregistered, however, such sale deeds for a consideration of less than Rs.100/- are permissible without any registered document. Coupled with that the plaintiffs have

been recorded in possession in the revenue record for a period of 6 years i.e. 1975 to 1981 on having purchased the land in question. In the years 1975 to 1981, defendant-appellant was not in picture. There was no dispute between the parties. Still further, on appreciation of oral evidence, courts have found that the plaintiffs are proved to be in possession of the property in dispute. Any order passed by the revenue authorities while deciding the application for correction of khasra girdwari is not binding on the civil court. Such order may be a piece of evidence, however, the civil court is entitled to independently record its finding. In the present case, courts after examining the records have found that the plaintiffs are in possession of the property.

Next argument of learned counsel for the appellant is that the entries in the revenue record are stray entries and therefore, it cannot be relied upon.

In the considered opinion of this court, the entries are not stray entries. The entries have continued for a period of 6 years. Six years is not a small period which can be called stray particularly when it is with respect to only small piece of land.

Still further, as noticed by the courts, Gurdev Sigh, the original owner, has not been produced by the defendant.

Next submission of learned counsel is that the defendant-appellant is a bonafide purchaser as the revenue record did not reflect the name of the plaintiffs when the defendant-appellant purchased the property in the year 1992.

This court has considered the submission.

It is well settled that no one can transfer better title than what

he himself has. Gurdev Singh has passed on the title in the year 1965. He was not left with any right, title or interest in the suit property.

Still further as noticed all the parties are residing in the same village and the moment any sale or agreement to sell is entered, it is talk of the village. Further for a period of 6 years, plaintiffs were recorded in possession in the revenue record as purchasers.

In view of the aforesaid discussion, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

May 08, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No