

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

RSA No.43 of 2005 (O&M)

Date of decision : January 12, 2018

Bani Singh

..... Appellant

Versus

Janak Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Maharaj Kumar, Advocate for the appellant.

Mr. Aadarsh Jain, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

This is regular second appeal against the judgment dated 30.10.2004 passed by learned Addl. District Judge, (Fast Track Court), Karnal, affirming the judgment and decree dated 10.12.2002 passed by learned Addl. Civil Judge (Sr. Divn.), Karnal, vide which the suit of the plaintiff-respondent for permanent injunction was decreed.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Plaintiff has claimed that he is in possession of the disputed plot having purchased the same on 07.06.1997 from Shri Lipti Singh, Sugan Singh, Ved Pal sons of Des Raj, residents of Village Koer, District Karnal, for ₹30,000/-. He claimed that defendant, who is his brother, wants to dispossess him. On the other hand, the defendant claimed that he is owner in possession of the disputed property and denied the possession of the plaintiff.

From the pleadings, following issues were framed:

“1) Whether the plaintiff is in possession of property in dispute, if so, whether defendant is liable to be restrained from dispossessing the plaintiff there from in view of the agreement to sell dated 7.6.1997? OPP.

2) Whether suit is not maintainable ? OPD

3) Whether plaintiff has no locus-standi to file the suit ? OPD

4) Whether suit is without cause of action ? OPD

5) Relief.”

It comes out that in order to prove his claim, the plaintiff examined attesting witnesses of the agreement Narain Singh as PW1, Dharam Pal as PW2 and Sugam Chand, Deed Writer as PW4. It also comes out that the disputed property was situated in the abadi deh of the village, regarding which no revenue record of the title is maintained.

On the other hand, defendant does not have any document in his favour. In the evidence, he simply asserted his claim that he is in possession of the said property.

Learned counsel for the appellant has argued that the agreement dated 07.06.1997 (Ex.P-10) is unregistered and does not confer any title.

I am of the view that it is not a suit for declaration. Even if, the document does not confer any title but it can show the possession of the plaintiff and the nature thereof. Therefore, Ex.P10 is sufficient to support the claim of the plaintiff. He had paid the consideration to the vendors and get the possession thereof.

Learned counsel for the respondent-plaintiff has pleaded that

was earlier in possession of his father and defendant get the same from his father.

Therefore, without a plea in the pleadings, the same cannot be considered.

It being so, there is no illegality or infirmity in the findings recorded by both the courts below. There is no force in the present appeal.

As such, the present regular second appeal is dismissed.

(KULDIP SINGH)
JUDGE

January 12, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No