

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

596

RSA-2650-2008 (O&M)

Date of Decision : 27.09.2018

Bhoop Kaur @ Gurmail Kaur and others

..... Appellants

Versus

Kaur Singh

.... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. S.S. Swaich, Advocate
for the appellants.

Mr. G.S. Punia, Sr. Advocate
with Ms. Jagriti Kalia, Advocate
for the respondent.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the judgment of the lower appellate court reversing that of the trial court and thereby decreeing a suit for possession filed by the respondent.

The respondent had filed a suit claiming that the appellant No.1 was his real sister and at one stage he allowed her and her family out of sympathy to stay in his house as licensee as she required a premises and he at that point of time was living in Malerkotla. However, he then terminated the license and wanted the possession of the house.

The case of the appellants on the other hand was that the appellant No.1 had built a house on a vacant piece of land and the

respondent had no connection with that property. She further pleaded that even if it was proved that the respondent had some connection with the property, she had become the owner by adverse possession.

The trial court dismissed the suit on the ground that the appellants had been able to prove that they were in possession of the disputed property prior to year 1981. However, the lower appellate court allowed the suit filed by the respondent on the ground that the appellants had not given any specific date that when they came into possession and that who was the owner of the suit property.

Counsel for the appellants has argued that in the year 1981, the appellant No.1 had moved an application for getting the water connection in her name. In my opinion, that may be so, but what she had to prove was not mere possession but hostile possession. Counsel for the appellants is not in a position to deny that the land belongs to the respondent. In the circumstances, even if it is presumed that she had been staying there for two or three decades, that itself would not prove hostile title, particularly keeping in view the relationship between the parties. Hostile title is not an unidimensional thing; for example, a stranger in possession can prove hostile title much more easily than a sister or a brother. In the present case, apart from one application which was given to the local Water Supply Department and the fact that in the House Tax Assessment Register the name of appellant No.1 had been mentioned and she was paying the house tax, there is no other evidence to show that the appellant No.1 had become owner by way of adverse possession and that also to my mind cannot be taken to be a hostile ouster.

In the totality of circumstances, I am not persuaded that the findings of fact recorded by the lower appellate court are either based on no evidence or based on such a perverse misreading of evidence so as to justify interference of this Court in second appeal.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

September 27, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No