

In the High Court of Punjab and Haryana at Chandigarh

RSA- 4488 of 2012(O&M)

Date of Decision: 7.2.2018

Tara Chand and others

---Appellants

versus

Bihari Lal and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. S.K.Yadav, Advocate
for the appellants**

**Mr. Tapan Yadav, Advocate,
for respondent No. 1**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts below whereby suit for possession filed by the respondent/plaintiff in respect of gair mumkin gawada forming part of khasra No. 85 measuring 1 kanal 12 marlas as per jamabandi for the year 1962-63, detailed in unnumbered para No. 1 of the plaint has been decreed by the trial court and the judgment and decree passed by the trial court were affirmed in appeal by the Additional District Judge, Narnaul.

Apart from the fact that there is delay of 61 days in filing the appeal, contention raised by the appellants to assail findings of the courts below is not meritorious and liable to be rejected.

The respondent/plaintiff Bihari Lal claimed himself to be

owner of the suit property alongwith proforma defendants No. 19 and 20 and prayed for a decree of possession against the contesting defendants alleged to be in unauthorized possession of the suit property. The suit was contested by defendants No. 1 to 4 (appellants herein) to contest claim of the respondent/plaintiff with regard to his ownership of the suit property but simultaneously raised the plea that they have become owner of the suit property by way of adverse possession. The courts below, on the basis of materials on record, upheld plea of the respondent/plaintiff with regard to his ownership of the suit property. It was also held that since the defendants have raised the plea of adverse possession, implicitly they have admitted the respondent/plaintiff to be owner of the suit land as plea of ownership by way of adverse possession is available against a true owner. Counsel for the appellant is not in a position to raise a legal issue much less to successfully assail findings recorded by the courts below, therefore, the appeal is devoid of merit and liable to be dismissed.

For the foregoing reasons, the appeal fails and is accordingly dismissed. No order as to costs.

(Rekha Mittal)
Judge

7.2.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No