

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

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**RSA No.2193 of 2013 (O&M)
Date of Decision : 07.12.2018**

Daya Ram

..... Appellant

Versus

Hari Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Pankaj Jain, Advocate
for the appellant.

Mr. Amit Jain, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing the suit for possession filed by the respondent No.1.

The case of respondent No.1 was that he was the owner of the property in dispute and had undertaken some construction thereon. Thereafter when he retired he shifted back to his ancestral village and handed over the house to the appellant to live and look after as a licensee. However, when he terminated the licence and requested the appellant to return the property to him the appellant refused. First the son of the appellant filed a suit claiming that he was a tenant on the property and

therefore seeking an injunction that respondent No.1 should be restrained from dispossessing him except in due course of law. In that case it was held that respondent No.1 was the owner but he could seek possession only in due course of law. Even in that case the stand of the appellant was the same as it is in this case. Thereafter the appellant filed the present suit. On this occasion the son remained *ex-parte* and the father took up the plea that he was the owner of the property by way of adverse possession.

Both the Courts below held that he was not able to prove the date, time or the manner how his possession had become adverse to that of respondent No.1 and decreed the suit and that is how the present appeal has been filed.

Counsel for the appellant has argued that the appellant nowhere admitted the ownership of respondent No.1 and the Courts below erred in relying upon the admission made by his son in the previous suit (to which he was not party) to hold respondent No.1 to be the owner whereas respondent No.1 was supposed to prove this.

In my opinion, this argument can not be accepted. Once in a suit filed by respondent No.1, the appellant claimed adverse possession it obviously meant that his possession was adverse to respondent No.1. In the circumstances, the finding of both the Courts that respondent No.1 is the owner of the said property can not be faulted with.

Appeal stands dismissed.

Since the main case has been decided, the pending Civil Miscellaneous Application, if any, also stands disposed of.

07.12.2018

pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No