

118

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

**RSA No.1389 of 2016(O&M)
Date of Decision: 07.09.2018**

Kamla Devi and others

.....Appellants

Versus

Gurdial Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vijay Lath, Advocate
for the appellants.

ANIL KSHETARPAL J.(ORAL)

Plaintiffs-appellants are in the Regular Second Appeal against the judgment passed by the learned First Appellate Court. Plaintiff claims that he is the owner in possession of 3 marla land having purchase the same from Ram Pal Singh by their predecessor vide sale-deed dated 05.03.2001, registered on 25.06.2001.

Defendants contested the suit and pleaded that Ram Pal Singh was neither the owner nor in possession of the property. It was claimed that it was owned by their predecessor and in a family settlement suit property was kept to straighten the wall of a Dharamshala (public place for residence of

usually religious tourists). The defendants have also pleaded that they have also relinquished 17'x2½ land of their own land to make the wall of the aforesaid Dharamshala straight.

The Trial Court decreed the suit, however, First Appellate Court has reverse the judgment by giving three reasons which is as under:-

1. No evidence has been produced to prove title of their predecessor/vendor i.e. Ram Pal Singh, although it was specifically disputed by defendants.
2. Suit filed by the plaintiffs cannot be decreed by finding deficiency in the evidence of the defendants. Plaintiffs have to stand on their own legs.
3. It is a vacant piece of land in village Abadi and there is no evidence of title in favour of the plaintiffs.

Learned counsel for the appellants submitted that the property is situated within abadi of the village bounded by Lal Lakir (Red Line) and hence, there is no document of title. He submitted that in absence of any document of title on the basis of preponderance of evidence, suit ought to have been decreed.

This Court has considered submissions, however, the appellants are calling upon this Court to interfere with the findings of the fact arrived at by the First Appellate Court. Unless counsel is able to justify or point out any error either in appreciation of evidence or in application of law in exercise of second appeal, this Court cannot interfere in the findings of fact.

Learned counsel for the appellant could not point out that there is either any perversity or any mis-reading or non-reading of evidence by the First Appellate Court, as such, there is no ground to interfere.

Regular Second Appeal is dismissed.

All the pending miscellaneous application(s), if any, is/are disposed
of in terms thereof.

(ANIL KSHETARPAL)
JUDGE

September 07, 2018

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No