

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

**Regular Second Appeal No.4122 of 2013 (O&M)
Date of Decision: May 01, 2018.**

Asha Bansal and others

.....APPELLANT(s).

VERSUS

Illa Lamba

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. K.K. Goel, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

This is appeal against the concurrent judgments of the Courts below decreeing the suit of the plaintiff-respondent for permanent injunction to restrain the appellants-defendants from interfering in his possession over the suit property.

Respondent-plaintiff has based her claim on registered sale deed dated 16.03.2004 executed in her favour by Sheetal Khanna owner of the suit property through his general power of attorney, Captain Shakti Monga. It has been alleged that plaintiff was delivered possession of the suit land and mutation on the basis of sale deed was also sanctioned in her favour.

The defendants contested the claim of plaintiff on the basis of

lease deed of the suit land dated 07.05.1997 executed by Rupesh Monga,

whereby they were allowed 99 years' lease of the suit property on payment of ₹50/- per annum as lease money.

Learned Civil Judge (Junior Division), Faridabad on the basis of evidence on record, concluded that possession of plaintiff over the suit property is duly proved while defendants have failed to prove their possession over the suit property. While recording the above finding, she took note of the entries in the revenue record and the statement of Rahul Bansal son of P.K. Bansal (defendant), who stated that he has never visited the disputed land. Not satisfied, the defendants filed first appeal before Additional District Judge, Faridabad, which was also dismissed with observation in para 14 of the judgment as follows:-

“14. In the present case, appellants through present appeal is claiming his ownership in the suit property on the ground the lease deed of 99 years at the rate of Rs.50/- per annum was executed by one Rupesh Monga through P.K. Bansal and subsequent thereof the possession of the suit property was handed over to the appellant. Perusal of the file reflects that appellant has failed to produce any cogent documentary evidence to prove the alleged lease deed. The statement of plaintiff Ila Lamba PW2 is worth mentioned as in cross examination she has very clearly stated that Sheetal Khanna has purchased this land from Rupesh and the sale deed was duly executed in the office of Sub Registrar Faridabad. She has denied the suggestion that the suit land is owned by P.K. Bansal who was father of the appellant-defendants. The electricity bill Ex.PW2/6 and Ex.PW2/7 also reflect that one electric meter was installed in the premises in the name of Ila Lamba.

..... DW1 Rahul Bansal has further stated in his cross examination that crops are being sown in the suit land but he showed ignorance as to what crops have been sown in the suit land on that day. He has also shown ignorance by stating that he has not obtained any document from Halqa Patwari regarding the suit land and he had also never verified revenue records from the office. However, it is surprising that the person who is claiming ownership by way of lease deed of the suit property has never visited the spot as in cross examination he has very clearly stated that he has never visited the suit property and also stated that he cannot tell as to whether any construction in the suit property has been made or not. It is settled law that presumption of truth is attached to the registered document which is sale deed and subsequent mutation. The testimony of plaintiff Ila Lamba as well as other witness show that it is the plaintiff who is having possession over the suit property as in her statement also she has very consistently deposed regarding her ownership over the suit property. The denial of the respondent that he has not seen the site and even he is not in position to give dimensions of the boundary of the suit property thereby shows that appellant-defendant has never visited the suit property and in this way he never in possession of the suit property by way of any documentary evidence. The alleged lease deed seems to be a sham and fabricated document and in this way the appellant-defendant cannot defeat the right of the plaintiff-respondent.”

The question in this case was not relating to title over the suit

has been able to prove her possession over the suit property.

On perusal of the judgments of the Courts below, I find that both the Courts below on basis of evidence on record, have rightly concluded that the possession of the plaintiff-respondent over the suit property is duly proved. The above observation of the Courts below are supported by entry in the revenue record, installation of electric connection over the suit property in the name of respondent-plaintiff and the testimony of Rahul Bansal, the prime witness examined by the appellants-defendants, who has expressed his ignorance about the crop cultivated on the suit land and stated that he had never visited the suit land.

Keeping in view the above facts and the finding recorded by First Appellate Court reproduced above, I find no reason to interfere with the observations of the Courts below in this regular second appeal, which has no merits.

No substantial question of law requiring determination arises in this appeal.

Dismissed.

May 01, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***