

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

RSA No.2446 of 2016 (O&M)

Date of decision:21.05.2018

Suresh Sharma

... Appellant

Vs.

Lakhmi Chander (deceased through LRs) and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjay Mittal, Advocate
for the appellant.

Mr. Vivek Khatri, Advocate
for respondents No.1 to 4/caveators.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the judgment and decree dated 23.12.2015 rendered by the Additional District Judge, Jhajjar, whereby, an appeal preferred against the judgment and decree dated 5.12.2014 passed by the Civil Judge (Senior Division), Jhajjar partly decreeing the suit for declaration and permanent injunction, has been dismissed.

Mr. Sanjay Mittal, learned counsel appearing on behalf of the appellant-plaintiff submits that suit claiming declaration and permanent injunction with regard to suit property was filed on 10.04.2009 on the premise that he had purchased the vacant land from defendant No.1 in the year 1992 for a valuable consideration of Rs.30,000/-. However, the defendants forcibly and illegally tried to interfere in the peaceful possession

of the plaintiff over the disputed house, therefore, cause of action arose to file the suit.

The defendants contested the suit by denying the ownership of plaintiff, rather stated that dispute property was purchased by them from Chander Bhan son of Hazari, vide sale deed dated 02.02.1976. Both the parties led evidence in support of their respective pleadings. The trial Court granted the relief qua injunction as noticed above but declined the declaration, for, plaintiff miserably failed to prove the sale deed, ibid and partly decreed the suit. The appeal laid before the Lower Appellate Court was dismissed. It was next contented that judgment and decree of the Lower Appellate Court is not sustainable in the eyes of law, for, no sane person would permit a person to be in possession after partition as possession follows the ownership.

I have heard the learned counsel for the appellant-plaintiff, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Mittal, for, the appellant-plaintiff has miserably failed to prove the ownership of the property vis-a-vis emphatically denial of the respondent-defendants in the express or implied terms. Since the appellant-plaintiff had been found to be in possession of the property, the trial Court granted the injunction by partly decreeing the suit vis-a-vis forcible interference.

As an upshot of my findings, I do not find any illegality and perversity in the judgment and decree of the Lower Appellate Court which are based upon the appreciation of oral and documentary evidence, much

no substantial question of law arises for adjudication of the present appeal.

No other argument has been raised.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 21, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No