

RSA No.1079 of 2015 (O&M)

{1}

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

RSA No.1079 of 2015 (O&M)

Date of decision:12.11.2018

Deepinder Singh Dhall

... Appellant

Vs.

Municipal Corporation, Jalandhar and others

... Respondents

RSA No.1120 of 2015 (O&M)

Deepinder Singh Dhall

... Appellant

Vs.

Kashmir Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amit Dhawan, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

This order of mine will dispose of two Regular Second Appeals bearing Nos.1079 and 1120 of 2015 arising out of two civil suits; one claiming declaration of ownership and another for mandatory injunction directing the respondents to close their gates, doors, windows and ventilators opening towards the street. Both the suits at the instance of the plaintiff have been dismissed by the trial Court and affirmed by the Lower Appellate Court.

The plaintiff claimed the ownership of the property on the basis of gift deed dated 20.11.1980 executed by Mohinder Kaur, widow of Sant Singh, who was allegedly owner of the property by virtue of allotment dated 29.08.1980.

Learned counsel appearing on behalf of the appellant submitted that the defendants had admitted the title of Mohinder Kaur, much less of Agya Kaur Dhall (mother of the plaintiff) and therefore, requirement of law for proving the same had already been complied with. The demarcation report also proved the identity of the property which did not find favour with both the Courts below, therefore, there is gross illegality and perversity in the findings rendered by both the Courts below.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, plaintiff has miserably failed to prove the ownership of Mohinder Kaur by virtue of allotment in her favour or anybody else, thus, question of gifting the property by virtue of gift deed, *ibid* would pale into insignificance. It was incumbent and obligatory upon the plaintiff to prove the title of Mohinder Kaur to claim the declaration which was emphatically denied by the Municipal Council. The demarcation report placed on record has not been prepared in the presence of the defendants. No effort was made by the plaintiff to get the property demarcated. In such circumstances, another suit for claiming mandatory injunction had also no foundation and rightly so, has been dismissed.

In view of what has been observed above, I do not find any illegality and perversity in the judgments and decrees rendered by both the

Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeals.

Resultantly, the appeals are dismissed.

November 12, 2018

savita

(AMIT RAWAL)

JUDGE

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