

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107/1

RSA No.121 of 2015 (O&M)

Date of decision: 23.01.2018

Surjit Kaur

..... Appellant

Versus

Gurnek Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sarju Puri, Advocate
for the appellant.

Mr. Malkeet Singh, Advocate
for the respondents.

ANIL KSHETARPAL, J.

CM-360-C-2015

Delay in filing is condoned and the application is allowed.

Main Case

Defendant-appellant is in regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff-Gurnek Singh, respondent herein filed a suit for permanent injunction restraining the defendants from interfering in his possession forcibly and dispossessing him from the house and from raising the construction over any part of the suit property measuring 3 kanals, 2 marlas comprised in Khata No.283/395, Khasra No.20//7/4 situated in village Chuaharpur, District Nawanshahar.

The defendants contested the suit and claimed that there was oral exchange between the parties and in fact, the plaintiff was given some

other property and the property owned by the plaintiff was given to the defendants. It was pleaded that the plaintiff-Gurnek Singh has become dishonest. He has left possession of the property which belong to the defendants after exchange and is now trying to assert his right with regard to the property which was given to the defendants in exchange.

Both the Courts after appreciation of evidence available on the file decreed the suit after recording a finding of fact that the defendants failed to give any evidence of oral exchange. It was noticed that there is no entry of oral exchange in the revenue record. No date, month or year has been disclosed when the alleged exchange took place.

I have heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

Learned counsel for the appellant has submitted that the judgments passed by the Courts below are result of misreading of evidence. He has further submitted that the entire approach of the Courts below was erroneous.

On the other hand, learned counsel for the respondent has supported the judgments passed by the Courts below. This Court repeatedly asked learned counsel for the appellant to point out as to which part of the evidence has been misread, however, he could not point out any material evidence which may have been misread. Revenue record has a presumption of correctness. Copies of the revenue record show that it is the plaintiff who is in possession of the property. The defendants failed to rebut the aforesaid presumption. The plaintiff in order to prove his ownership and possession has produced on file copy of the Jamabandi for the year 2003-04 qua the

suit property, a lay-out plan of the property got prepared from Architect-Gurcharan Singh, copy of the ration card Ex.P-3 showing that he is residing in the house in question and copy of the bill-cum-receipt evidencing payment of the electricity bill to Punjab State Electricity Board with respect to electricity meter against account No.SB43-0178 in the name of plaintiff-respondent-Gurnek Singh.

In view of the aforesaid, this Court does not find any misreading of evidence by the Courts below or any error in the approach of the Courts below while deciding the case.

Hence, the appeal is dismissed.

23.01.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No