

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

RSA No. 3406 of 2016 (O&M)

Date of decision : 12.09.2018

Girdhari Lal (deceased) thr. his LRs

....Appellant(s)

V/s

Parkasho Devi & ors.

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rai Singh Chauhan, Advocate for the appellant(s).

RAJAN GUPTA J.

Aggrieved by judgments of two courts below, plaintiff-appellant has filed the instant appeal. Learned counsel for the appellant(s) has argued that there has been complete mis-appreciation of evidence by both the courts below. He submits that plaintiff(s) was owner in possession of the plots in question as he was the proprietor of the village. According to him, findings arrived at are contrary to evidence on record. Interference is, thus, called for in second appeal.

I have heard learned counsel for the appellant.

Brief factual background of the case is that plaintiff- Girdhari Lal (deceased) who is represented through his legal heirs filed a suit for declaration against the respondents-defendants on the ground that he was owner in possession of two plots marked as ABEF and BCD respectively as described in the head note of the plaint, situated within the limits of village Narot Mehra. Alternatively relief of permanent injunction restraining the defendants from interfering in the possession of the plaintiff(s) was also prayed for. It was averred that plaintiff, who was proprietor of the village,

owned considerable agricultural and non-agricultural land including plots in question. These plots were used to store sundry articles. Defendants no. 1 to 3 who had executed sale-deed dated 25.03.2003 in favour of respondent no. 4 qua plots in question was illegal, null and void. This resulted in filing of the instant suit. On notice being issued suit was contested by defendants by filing the written statement. Besides denying material averments raised by plaintiff, it was averred that plaintiff was not the owner of the plots in question. Rather it was jointly owned by defendants no. 1 to 3. Other averments made in the plaint were also denied and it was prayed that suit filed by the plaintiff(s) be dismissed. During trial, attorney of the plaintiff stepped into the witness box as PW1 and proved on record copy of attorney deed Ex. P1, site plan Ex. P2, missal hakiat Ex. P-3. Davinder Kumar, one of the defendants himself stepped into the witness box as DW-1 and proved on record sale-deed dated 25.03.2003. His testimony was corroborated by Jaswinder Kumar DW-2 and Pardeep Kumar DW-3. On the basis of evidence, trial court came to the conclusion that plaintiff(s) had not been able to prove that they or their forefathers ever remained in possession of the suit land. It, thus, dismissed the suit of the plaintiff(s). Feeling aggrieved, plaintiffs preferred an appeal. The findings arrived at by the trial court were affirmed by the first appellate court and appeal was dismissed. Hence the present second appeal. I, however, find no infirmity with the concurrent findings of two courts below. The onus was on the plaintiff(s) to establish that he was the owner of the plots in question. He has failed to produce on record any evidence to show that he was the owner of the plots in question or same have been acquired by him in a partition of abadi land of the village.

The questions of law as proposed in grounds of appeal are merely questions

of fact which have already been adjudicated upon. This appeal is, thus,

without any merit. Dismissed.

CM No. 8971-C of 2016

Since the appeal has been dismissed on merits, no order is required to be passed in the instant application.

September 12, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No