

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

(111)

RSA-3426-2016 (O&M)

Date of Decision: October 31, 2018.

Rattan Singh through LRs Narinder Singh

..Appellant

Versus

Beant Singh and others

..Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. R.S. Aulakh, Advocate, for the appellant.

AMIT RAWAL, J. (ORAL)

CM-9006-C-2016

Prayer in the application is for impleading the legal representative of the applicant/appellant-Rattan Singh (since deceased).

Heard.

In view of the facts mentioned in the application and arguments addressed, legal representatives of applicant/appellant-Rattan Singh (since deceased) impleaded as party for the purposes of decision of this appeal, subject to just exceptions.

RSA-3426-2016 (O&M)

Appellant-plaintiff claimed declaration for having become owner in possession of the suit land with consequential relief of injunction seeking restraint against defendants from forcible interference into the peaceful possession.

The defendants contested the suit being not maintainable and admitted the fact that the suit property was earlier owned by Durga Ram etc and a land measuring 3 kanals 2 marlas was sold to defendant No.2 vide registered sale deed dated 28.12.1973 and that physical possession thereof was also handed over. The entries showing the plaintiff in possession as vendee was wrong, without any basis as he was tenant to the extent of 1/3rd share as

per the jamabandi recorded in the year 1980-81.

The trial Court dismissed the suit and the lower Appellate Court also dismissed the appeal.

Learned counsel appearing on behalf of the appellant submitted that once the appellant has been found in possession which was continuous, uninterrupted, peaceful, hostile, open and notorious, the Courts below cannot deny relief of injunction in the absence of counter claim claiming possession. In other words, it was submitted that plaintiff could not have been dispossessed except in due course of law.

There is no categorical pleadings with regard to ownership of the defendants as per provisions of Section 27 of the Limitation Act. Same reads as under:-

Extinguishment of right to property.—At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished. 27. Extinguishment of right to property.—At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished."

I have heard learned counsel for the appellant and of the view that there is no force and merit in the submission. A person cannot seek ownership on the basis of uninterrupted possession by simply relying upon the provisions of Article 65 of the Act in view of the law laid down by the Hon'ble Supreme Court in **Gurudwara Sahib Vs. Gram Panchayat village Sirthala and another, 2013 (4) R.C.R. (Civil) 703.**

In view of the aforementioned, I am of the view that judgment and decree do not call for interference.

Accordingly, the appeal is dismissed.

Application for condonation of delay is also dismissed.

October 31, 2018.
harsha

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No