

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

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RSA No. 2127 of 2015 (O&M)

Date of Decision : 26.3.2018

Lashkar Singh (since deceased) through his LRs

....Appellant

vs.

Joginder Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. H.K.Aurora, Advocate
for the appellant(s).

Mr. Rajbir Wasu, Advocate
for respondents No. 1 to 5, 6 (i), (ii), (v), (vi) and 7.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower appellate Court reversing that of the trial Court and thereby allowing the appeal filed by the respondent-plaintiff.

The respondent-plaintiff had filed a suit for possession of 3 Kanals 14 Marlas of land on the ground that the appellant was in illegal possession of the land. The case of the appellant on the other hand was that about thirty five years ago there was an oral exchange whereby his predecessor-in-interest had exchanged certain better quality of lesser land with the predecessor-in-interest of the respondent who had handed over these 3 Kanals 14 Marlas of lesser quality land. In replication the respondent had clarified that a written exchange had taken place between predecessors-in-interest of both the parties in the year 1970. As a result of which 19 Kanals of 16 Marlas land was exchanged with the same amount of

land. The respondent denied any oral exchange. In his testimony the respondent accepted that 3 Kanals 14 Marlas of land had been handed over by his mother to the appellant. The trial Court took this as an admission of the oral exchange and dismissed the suit. The appellate Court however held that there was no evidence of oral exchange and mere admission by the respondent that his mother had handed over the land to the appellant did not and could not in fact convey any title or nor was it evidence of any exchange.

Learned counsel for the appellant has argued that actually during evidence it has emerged that there is another piece of land which actually belongs to the appellant but which is in possession of the respondent. If that is so there is no bar to the appellant suing for that but otherwise the judgment of the appellate Court, in my considered opinion is correct. Learned counsel for the appellant is not in a position to deny that property can not be exchanged orally. It can only be done by way of registered document.

Resultantly, no fault can be found with the judgment of the lower Appellate Court. The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

26.3.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No