

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

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RSA-2947-2015 (O&M)

Date of Decision : 05.02.2018

Anand Kumar and another

..... Appellants

Versus

Sheo Chand Rai and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Harkesh Manuja, Advocate
 for the appellants.

AJAY TEWARI, J. (Oral)

By this appeal the appellants has challenged the concurrent judgments of the Courts below dismissing the suit for injunction filed by them.

The case of the appellants was that the plot in dispute was owned and possessed by them and consequently sought an injunction restraining the respondents from trying to encroach upon the same. The case of the respondent No.1 on the other hand was that the appellants had no connection with the property in dispute and it was owned by the respondent Nos.2 & 3 who were erstwhile partners of his. In fact many years ago when their partnership had been dissolved some money was due from the respondent Nos.2 & 3 to him and in settlement of that the respondent Nos.2 & 3 had transferred the plot to him and to this effect there was a decree between the parties.

To illustrate their right the appellants relied upon two stray entries in the House-tax register of the year 1966-67 and 1977-78. On the other hand the case of the respondent No.1 was that when the respondent Nos.2 & 3 had transferred the plot to him he had even built a boundary wall thereon and this fact had been mentioned by him in his previous suit. The trial court appointed a Local Commissioner who went and found that in fact there was a boundary wall built as had been alleged by respondent No.1. On the basis of these two pieces of evidence, the courts below held that the two entries in House-tax register could not prove ownership in 1999 and the fact that the appellants did not mention about the wall in their plaint clearly gave rise to the inference that neither they were able to prove their ownership nor their exclusive possession and consequently dismissed the suit.

Counsel for the appellants has argued that the courts below have erred in giving undue weightage to the previous collusive suit between the respondents.

In my opinion, even without giving any credence to that previous suit there was ample material on the record to show that the appellants were not able to prove the case set out by them, being plaintiffs.

Consequently, the appeal is dismissed. No costs.

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

February 05, 2018

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(AJAY TEWARI)
JUDGE