

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

**RSA No.4412 of 2016 (O&M)
Date of Decision.16.11.2018**

Chain RamAppellant

Vs

Dinesh Kumar Chopra and others ...Respondents

2. RSA No.4413 of 2016

Chain RamAppellant

Vs

Dinesh Kumar Chopra and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Jain, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

This order of mine shall dispose of two regular second appeals bearing No.4412 and 4413 of 2016. RSA No.4412 of 2016 is arising out of decision rendered in Civil Suit No.927 of 2011 titled as “Chain Ram vs. Dinesh Kumar and others” (hereinafter called the first suit) whereby suit at the instance of the appellant-plaintiff has been dismissed. RSA No.4413 of 2016 is arising out of Civil Suit No.0018146 of 2013 titled as “Dinesh Kumar and others vs. Chain Singh and others” (hereinafter called the second suit) whereby suit at the instance of the respondents-plaintiffs has been decreed by the trial Court and affirmed by the lower Appellate Court.

In both the aforementioned suits, property in dispute is the same. Appellant-plaintiff in the first suit and the defendant in the second suit was asserting right in the property by challenging the sale deed dated 25.05.1992 allegedly executed by him in favour of father

of the defendants. It was alleged that the plaintiff never executed the sale deed aforementioned in favour of the father as entry in the revenue record continued to be in his name. The khasra girdawari for the year 2003-04 to 2005-06, Ex.P2 was a testimony of the same but the courts below have erroneously dismissed the suit of the plaintiff and decreed the suit of the defendants.

I am afraid aforementioned argument of learned counsel for the appellant is not sustainable, for, except solitary entry in the khasra girdawari referred to above, there is no other entry to show that plaintiff had been in possession of the suit property after having been divested of the title way back in the year 1992, thus, best piece of evidence has been withheld. The suit filed in the year 2006 could not be said to be within the period of limitation and provisions applied would be of Article 58 of the Limitation Act and not Article 59. Plaintiff miserably failed to prove the ingredients of fraud and misrepresentation.

As an upshot of my finding, I do not find any illegality and perversity in the judgments and decrees passed by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, both the second appeals are dismissed.

(AMIT RAWAL)
JUDGE

November 16, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No