

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.4576 of 2016 (O&M)

Date of decision:20.11.2018

Bant Singh

... Appellant

Vs.

Surjit Singh (since deceased) through LR's and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.S.Salar, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant no.5 has not been able to defend the suit preferred by the plaintiff for declaration and permanent injunction on the basis of title dated 06.07.1981 which has been granted by the trial Court and affirmed by the Lower Appellate Court.

The appellant-defendant no.5 opposed the suit being barred by law of limitation and the sale deed relied upon by the plaintiff was forged and fabricated document. The plaintiff used to take the land on lease and had been paying the *batai*. No such sale deed was ever executed by him in favour of the plaintiff.

Mr. S.S.Salar, learned counsel appearing on behalf of the appellant-defendant no.5 submitted that the plaintiff has failed to prove the execution of the sale deed. The suit was barred by law of limitation. The

attesting witnesses have not been coherent and consistent.

I am afraid the aforementioned argument is not sustainable in the eyes of law as both the attesting witnesses have proved the execution and registration of the sale deed executed by appellant-defendant no.5 in favour of the plaintiff. There is no limitation when the right qua title is being claimed.

The aforementioned view of mine derived from the ratio decidendi culled out by the Division Bench of this Court in **Mohinder Singh Vs. Kashmir Singh 1985 PLJ 82**. The defendant cannot take a plea of adverse possession against the co-owners in the absence of specific relief. This is what the import of judgments and decrees of the Courts below.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 20, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No