

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.4898 of 2016 (O&M)

Date of Decision:10.08.2018

Piara Singh through his LRs

...Appellant

Versus

Prem Singh and others

...Respondents

RSA No.6952 of 2016 (O&M)

Piara Singh through his LRs

...Appellant

Versus

Prem Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms.Sarika Gupta, Advocate for the appellant(s).

ANIL KSHETARPAL, J. (ORAL)

CM-12766-C-2016

For the reasons mentioned in the application, which is supported by an affidavit, delay of 55 days in filing the appeal is condoned.

Main case

This judgment shall dispose of two appeals bearing RSA Nos.4898 of 2016 and 6952 of 2016, as both these appeals are arising out of similar set of facts.

The plaintiff-appellant is in the regular second appeal against the judgment passed by the learned first appellate court, while reversing the judgment passed by the learned trial court.

The plaintiff filed a suit for permanent injunction, claiming that the property is situated in the residential area of the village and he is in the exclusive possession of property marked as 'ABCDEF' in the headnote of the plaint as well as of the site plan attached. It is not in dispute that originally Jiwan, Telu Ram and Mansha Ram were joint owners of the property. Jiwan had three sons namely Piara Singh, Ram Jatti and Maqsudan Singh. Maqsudan Singh had died and his son is Capt. Kamal Singh. Similarly Telu Ram has one son namely Bachhitar Singh, whereas Mansha Singh had one son namely Bakhtawar Singh. Vijay Kumar is son of Bakhtawar Singh. It is pleaded case of the plaintiffs that in partition, property in dispute fell to the share of his father which took place between Jiwan, Telu Ram and Mansha Singh. It is further pleaded case of the plaintiff that an oral settlement was arrived at between Piara Singh, plaintiff Ram Jatti and Maqsudan and the property in dispute fell to his share.

The defendants contested the suit and pleaded that Vijay Singh and Kamal Singh nephews of Piara Singh had transferred possession by execution of a document on receipt of Rs.75,000/-.

It is not in dispute that the plaintiff failed to produce any evidence to prove his exclusive title over the property. The plaintiff in support of his claim has only produced a lay out plan Ex.P2. Mr.Walia, who had prepared Ex.P2, has admitted that he has never visited the site. Apart from the lay out plan, no witness has been examined by the plaintiff except his own bald statement to prove his ownership and exclusive possession. The judgment passed by the appellate court is in detail and cogent reasons have been recorded while reversing the judgment of the trial court. Learned counsel for the appellant could not point out any error in the judgment of the first appellate court.

In view therefore, there is no ground to interfere. Regular Second Appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

10.08.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No