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

RSA No. 4937 of 2016 (O&M)
Date of Decision: 23.10.2018

Ashwani Kumar and another

-Appellants

Vs

Desa Singh and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.K. Arya, Advocate,
for the appellants.

RAJ MOHAN SINGH, J. (ORAL)

Plaintiffs are in regular second appeal in a suit for possession.

The suit was filed on the basis of sale deed dated 27.02.1998 in respect of 13K-6M of land comprised in Khewat No.42, Khatauni No.55/1, Rect No.36, Khasra No.21 (6-13) and 22 (6-13). Mutation No.1278 of the aforesaid land was entered but ultimately cancelled by virtue of order passed by Consolidation Officer. The land was taken out from the entitlement of defendant No.1- Desa Singh and in lieu of said land, new Khasra numbers i.e. Rect. No.45, Khasra No.4/2 (4-0), 4 (8-0), 14/1 (1-7) were allotted in favour of Desa Singh.

Plaintiffs filed the suit on the ground of fraud and also filed appeal against the order dated 10.02.1998 passed by

Consolidation Officer. The appeal was dismissed by the Settlement Officer on 24.02.1999 on the ground that the plaintiffs have not purchased the land as on 10.02.1998. New Khasra numbers were sold by defendant No.1 in favour of defendants No.2 to 4.

Both the Courts below have found that the remedy to seek recovery of the amount from defendant No.1 was available to the appellants but having not done so, suit for possession in respect of new Khasra numbers cannot be decreed.

The sale deed dated 27.02.1998 executed by defendant No.1 in favour of the plaintiffs was in respect of land with old Khasra numbers which was cancelled and defendant No.1 was deprived of said Khasra numbers and in lieu thereof, new Khasra numbers were allotted. The sale deed was not in respect of land under new Khasra numbers.

The findings of fact recorded by both the Courts below cannot be held to be on account of mis-reading of evidence or having suffered with any perversity.

No question of law worth cognizance of this Court is involved in the present appeal.

This regular second appeal is accordingly, dismissed in limine.

Since the appeal has been decided on merits, there is no necessity of passing any order in the application under Section 5 of the Limitation Act.

23.10.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No