

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

**RSA No. 3868 of 2015
Date of decision: 8.5.2018**

Gurinder Singh Grewal and another

... Appellants

Versus

Neelam Rani

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. H.P. S. Bhinder, Advocate
for the appellants.

ARUN PALLI, J. (Oral)

The suit filed by the plaintiffs was dismissed by the trial court, vide judgment and decree dated 5.5.2012. As even the appeal preferred against the said decree failed and was dismissed on 9.12.2014, plaintiffs are in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

In a suit filed by the plaintiffs, they claimed a decree for injunction, restraining the defendants from causing forcible dispossession or interfering in their peaceful possession over a plot shown in the site plan, comprised in khasra No. 888, khata No.497/530, situated in village Taraf Saidan, Tehsil and District Ludhiana.

Briefly, the case set out by the plaintiffs was that an area measuring 1 bigha 16 biswa 8 biswansi, comprised in khasra No. 888, was owned by numerous persons, including the plaintiffs, and they had 126th share in the joint holding. Further, major portion of the suit property was

constructed and was being used for residential purposes, whereas, the site in dispute was a vacant plot. Defendants No. 2 and 3 happened to be cousins of the plaintiffs, and although, they had no right, title or interest in the suit land, but, yet they alienated an area measuring 1 biswa 5 biswansi to Neelam Rani (defendant No.1), vide sale deed dated 5.6.1992, and also 8/1026th share out of khasra No. 2504/892, 14/164th share out of khasra No. 1942/894 and 3/187th share out of khasra No. 893.

In defence, defendant No.1 categorically denied that the suit property formed part of khasra No. 888, khata No. 497/530. Likewise, in a separate written statement filed by defendants No. 2 and 3, they too maintained that they were the absolute owners of the suit property, and, thus, they had every right to alienate the same or deal therewith.

On a consideration of the matter in issue and the evidence on record, both the courts concurrently concluded that for the plaintiffs to succeed, they were required to substantiate that the suit property, which defendant No.1 had purchased for a valuable consideration, indeed, formed part of khasra No.888. Particularly, when the positive case set out by the defendants was that land purchased by defendant No.1 actually comprised in khasra Nos. 892, 893 and 894. In fact, in a dispute of this nature, the plaintiffs ought to have got the suit property demarcated and led an appropriate evidence to show, as to in which khasra number the suit property was comprised in. Resultantly, the plaintiffs failed to prove that the land depicted in red colour in the site plan (Ex. P-1 and P-2), indeed, formed part of khasra No. 888. Thus, the only and the inevitable conclusion that could be reached: the suit was liable to be dismissed. On being pointedly asked, learned counsel for the appellants could not show as to how, the findings

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recorded by both the courts were either contrary to the record or suffered from any material illegality.

Thus, no question of law, much less a substantial question of law, arises for consideration. The appeal being devoid of merit, is accordingly dismissed.

8.5.2018

AK Sharma

Whether speaking / reasoned:
Whether Reportable:

**(ARUN PALLI)
JUDGE**

YES
NO