

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-5621-2016 (O&M)

Date of decision: August 28, 2018

Lashkar Singh

...Appellant

Versus

Punjab State Cooperative Supply and
Marketing Federation Ltd. & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Satish Goel, Advocate for the appellant.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/appellant Lashkar Singh filed a suit for possession against the defendant/respondents, alleging that defendants No.2 & 3 have been impleaded vide order dated 31.01.2000 passed under Order 1 Rule 10 CPC. It is averred that plaintiff had purchased the property in question from Veera Bai etc. on 13.8.1998 and he was delivered possession on the same day by the vendors, whereas 1/4 share towards northern side of the said property was in possession of defendant No.1, possession of which could not be delivered and only symbolic possession was delivered to the plaintiff. Thus, plaintiff filed instant suit. Suit was resisted by the defendants. Defendant No.1 in its written statement raised

certain preliminary objections such as maintainability, non-joinder and mis-joinder of necessary parties etc. On merit, the averments made in the plaint were denied and it was alleged that the answering defendant had no knowledge regarding purchase of the suit land. Documents annexed by the plaintiffs are false and create no right in favour of plaintiff. Further Satish Kumar had no right to execute the sale deed in favour of plaintiff. Veera Bai etc. had also no right or title over the said property. Plaintiff never came in possession of the property in question. Defendant No.2 filed his written statement with the similar averments. After hearing both the parties and perusing oral as well as documentary evidence, the trial court dismissed the suit. It observed that since there is a dispute whether the property is evacuee property or non-evacuee property, the jurisdiction of the civil court is barred. The plaintiff allegedly purchased the suit property from the successors of Banwari Lal, to whom the property in question was allotted by the Custodian Department. However, later on, said allotment was cancelled by the competent authority and the property was declared to be non-evacuee property. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

CM-14721-C-2016:

Since the main appeal has been dismissed on merits, this applications for condonation of delay does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

August 28, 2018
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No