

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

**RSA No.4396 of 2015 (O&M)
Date of Decision: 07.08.2018**

Bhupinder Singh and another

... Appellants

Versus

Bhag Singh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. N.K. Vadehra, Advocate,
for the appellants.

TEJINDER SINGH DHINDSA, J.(ORAL)

A suit for possession of land measuring 12 marlas 07 sarsai out of land measuring 15 kanals 08 marlas as detailed in the head note of the plaint filed by the plaintiffs was dismissed by the trial Court on 07.08.2014. Civil appeal preferred by the plaintiffs has met the same fate vide judgment dated 24.04.2015 passed by the learned Additional District Judge, Gurdaspur.

Having remained unsuccessful in the Courts below, plaintiffs/appellants are in second appeal before this Court.

Learned counsel appearing for the appellants would vehemently contend that ownership of the suit property of the appellants had been admitted by the defendants/respondents and in view of such clear admission, the suit for possession filed by them ought to have been decreed. In support of such contention, reliance has also placed upon judgment of this Court in ***Sukhdev***

Sharma Vs. State of Haryana, 1993 (1) PLR 107.

Having heard counsel for the appellants at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant appeal and the same deserves to be dismissed.

Decree of possession was being sought by the plaintiffs/appellants on the basis of ownership.

Plaintiff-Bhupinder Singh had stepped into the witness box as PW-1 but thereafter chose not to appear for cross-examination in spite of repeated opportunities having been availed. It has not been controverted that evidence of the plaintiffs ultimately was closed by order by the trial Court on 08.07.2014. It is also the conceded position that no remedy had been availed of by the appellants against such order.

Under such circumstances, the examination-in-chief of plaintiff-Bhupinder Singh could not be read into evidence. That apart no evidence whatsoever had been adduced by the plaintiffs/appellants to prove their title and ownership as regards the suit property.

It would be apposite to take note that the defendants/respondents had taken a stand that in pursuance to a sale deed dated 19.06.1989, Raghbir Singh father of plaintiffs/appellants had sold his 1/3rd share i.e. 05 kanals 14 marlas out of the total land measuring 19 kanals 02 marlas in favour of Gurdeep Singh i.e. father of defendant No.1-Bhag Singh (respondent No.1 herein).

Gurdeep Singh having expired, the defendants being

the legal heirs had become the owners of the suit land.

The submission raised by counsel as regards the defendants/respondents having admitted the ownership of the plaintiffs/appellants of the suit property is not well founded.

This Court has perused the averments made in the plaint which were only to the effect that about 03 years back Raghbir Singh had died and his sons i.e. plaintiffs, Bhupinder Singh and Harnek Singh were the legal heirs. There was no averment as regards the suit property having devolved on the plaintiffs/appellants. The admission, if any, by the defendants/respondents was with regard to ownership of father of the plaintiffs/appellants as it is their case that the land had been sold by father of the plaintiffs/appellants vide sale deed dated 19.06.1989 in favour of Gurdeep Singh i.e. father of defendant/respondent Bhag Singh. The judgment cited by learned counsel in ***Sukhdev Sharma's case (supra)*** as such would have no applicability in the present case.

Concurrent finding has been recorded by the Courts below as regards the plaintiffs/appellants having not proved the title/ownership of the suit property.

Even during the course of arguments, counsel has not been able to advert to any evidence that may have been led by the appellants in such regard.

In view of the above, no warrant for interference is made out.

The instant appeal does not raise any question of law
much less substantial question of law.

Appeal dismissed.

Since the main case itself has been decided, pending
application(s), if any, shall also stand disposed of.

07.08.2018

vandana

(TEJINDER SINGH DHINDSA)

JUDGE

Whether speaking/reasoned

Whether Reportable

Yes

No