

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

RSA No.4775 of 2015 (O&M)

Date of Decision: 14.05.2018

Sushila Devi (since deceased) through LRs Manju and others

...Appellants

Versus

Ramkali and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jain, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for the Caveator/respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff through her legal heirs is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff filed a suit for declaration claiming that she has become owner by way of adverse possession of land measuring 1 kanals and 9 marlas. He also prayed for the relief of injunction.

Learned trial Court after appreciating the evidence available on the file held that the suit for declaration filed by the plaintiff claiming that she has become owner by way of adverse possession was not maintainable. The trial Court further found that the plaintiff is not proved to be in possession and, therefore, the relief of injunction was also not granted.

During the pendency of the first appeal, the plaintiff gave up his relief of declaration by suffering a statement as noticed by the First

Appellate Court in para 15 of the judgment, however, continued with the appeal on the ground that the plaintiff is entitled to protect her possession in settled possession.

Learned First Appellate Court has noticed that in the revenue record, possession of the plaintiff is not recorded. The Courts after appreciating the oral evidence available on the file have recorded a finding that the plaintiff has failed to prove her possession. The Courts have further noticed that although the plaintiff claims that her possession is old one, however, the same is not proved from any documentary evidence.

In view thereof, there is no scope for interference with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

14.05.2018

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No