

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.6311 of 2016 (O&M)

Date of decision: 19.09.2018

Paitu Ram

..... Appellant

Versus

Manohari Devi and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- None.

ANIL KSHETARPAL, J. (ORAL)

On 22.09.2017, no one was present on behalf of the appellant. Hence, the case was adjourned. Even today, the case has been called twice but counsel for the appellant has not come forward to press this appeal. Hence, this Court is left with no choice but to read and decide the case.

Defendant-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

The plaintiffs who are parents of the defendant-appellant filed a suit for permanent injunction restraining the defendant from interfering in their peaceful possession of the property. The defendant contested the suit and pleaded that he has constructed the house and is residing in the portion for the last 20 years. However, when DW-3, who was produced by the defendant, admitted in the evidence that the property belongs to plaintiff No.2 i.e. Babu Ram. The defendant-Paitu Ram also while appearing as DW-4 has admitted that the property is ancestral. The Court found that the evidence of the defendant is not consistent. This finding has been affirmed by the learned First Appellate Court after re-appreciating the evidence.

In the grounds of appeal, the following substantial questions of law have been proposed:-

“(i) Whether the judgments and decree passed by both the Courts below are illegal, unjust, arbitrary when appellant proved his possession over the land in question?

(ii) Whether the suit of the plaintiff can be decreed without proof of ownership and possession?

(iii) Whether judgments and decree against the documentary evidence is legally sustainable in the eyes of law?

(iv) Whether the impugned judgments and decrees passed by both the learned Courts below is sustainable, when the same is beyond the oral as well as documentary evidences available on record.”

In the considered opinion of this Court, such questions as raised do not arise in the present case particularly keeping in view the fact that DW-3 when appeared in evidence, has admitted that the suit property belongs to plaintiff No.2. In the grounds of appeal, it is nowhere pointed out that the judgments passed by the Court below are result of any misreading or non-reading of substantial evidence.

In view thereof, there is no ground to interfere with the concurrent finding of fact arrived at by the Courts below.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

19.09.2018
Dinesh Bansal

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No