

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.6491 of 2016 (O&M)

Date of Decision: December 19, 2018

Gurdayal and others

.....Appellants

versus

Hanuman and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Bindu Chaudhary, Advocate, for the appellants.

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Amit Rawal, J. (Oral)

CM No.17009-C of 2016

For the reasons mentioned in the application, the same is allowed and delay of 24 days in filing the appeal is condoned.

Main Appeal

The plaintiffs-appellants are not successful in seeking declaration/challenge the judgments and decrees dated 14.02.1989, 28.7.1989 and 24.05.1990, on the premise that the property in the hands of common ancestral, namely, Jee Sukh was ancestral. Both the Courts below have declined the grant of injunction in the absence of any documentary evidence.

Learned counsel for the appellants submits that recital in the consent decree under challenge reflected the nature of the suit property as ancestral and therefore, onus to prove the same was impliedly discharged.

This argument is not sustainable. The appellants-plaintiffs have not been able to discharge the onus as per provision of Section 101 of

Indian Evidence Act. Great grand-father was the owner of the property which devolved upon Thakur and then to his son Brij Lal etc. The reasoning assigned by the trial court in no circumstance is suffering from illegality and perversity.

No case to interfere with the impugned judgments and decrees is made out.

Dismissed.

December 19, 2018

mohinder

(AMIT RAWAL)

JUDGE

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