

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 06.09.2018

1. RSA No.6938 of 2016 (O&M)

Ravinder Jain and another

..... Appellants

Versus

Usha Malik and another

..... Respondents

2. RSA No.38 of 2017 (O&M)

Ravinder Jain and another

..... Appellants

Versus

M/s Sawhney (India) Pvt. Ltd.

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arun Gupta, Advocate
for the appellants (in both cases).

None for the caveator-respondents.

ANIL KSHETARPAL, J.

**CM-17999-C-2016 & CM-18000-C-2016 in
RSA No.6938 of 2016**

Both the applications are allowed and the delay in filing and
re-filing the appeal are condoned.

**CM-59-C-2017 & CM-60-C-2017 in
RSA No.38 of 2017**

Both the applications are allowed and the delay in filing and
re-filing the appeal are condoned.

Main Cases

Vide this judgment, I shall be disposing of two appeals bearing

RSA No.6938 of 2016 and RSA No.38 of 2017 which are connected. Counsel for the appellants also agrees that both these appeals can be conveniently disposed of by a common judgment as issue to be determined is common in both the appeals.

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below in two separate suits.

M/s Sharco Industries Pvt. Ltd. was the owner of the property. The plaintiffs have purchased small plots through registered sale deeds from M/s Sharco Industries Pvt. Ltd. The sale deeds have been executed in favour of approximately 54 persons. The defendants-appellants claim that they are in possession of the property having purchased leasehold rights from heirs of late Sh. S.K. Charkarvati who was perpetual lessee vide deed dated 20.04.1959.

Both the Courts after appreciating the evidence have found that the possession of Sh. S.K. Chakarvati or his successors is not proved. The Courts have found that M/s Sharco Industries had constructed a factory on the land in dispute in the year 1962-63 and carried out manufacturing activity for about 30 years whereafter the company stopped the manufacturing activity and carved out plots and sold the property to different bona fide purchasers. In an other suit, a Local Commissioner was appointed and it was found that the factory is in existence.

Learned counsel for the appellants submitted that the factory premises was only in area of 12 kanals and 5 marlas whereas the lease was with respect to the area of 20 kanals and 17 marlas. He submits that at least on the remaining area, the defendants-appellants continued in possession.

However, on being requested to point out, learned counsel for the appellants frankly admitted that this plea was neither taken in the written statement nor ever raised before the trial Court.

Still further, learned counsel for the appellants could not point out any perversity or error in appreciation of evidence by both the Courts below.

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

Both the appeals are dismissed.

06.09.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

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