

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

RSA No.757 of 2016 (O&M)

Date of decision : 23.01.2018

Raminder Singh Bularia (deceased) through his LRs.

...Appellants

Versus

Government of Jammu and Kashmir

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudeep Mahajan, Advocate with
Ms. Manjit Saini, Advocate for the appellants.

Mr. Akhilesh Vyas, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The defendant-appellants is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff-Government of Jammu and Kashmir had filed a suit for possession of the land measuring 20 kanals and 1 marlas pleading that earlier Gurbax Singh, father of the defendant-appellant, was inducted as a tenant vide lease deed dated 09.07.1968 and thereafter neither the defendant has paid the lease money nor has handed over the vacant possession. The tenancy if any was terminated vide notice dated 04.08.2006 and defendant was called upon to hand-over the possession.

The defendant contested the suit and pleaded that he has perfected his title by way of adverse possession. It was pleaded in the

written statement that his possession is open and hostile since the year 1956.

In order to prove the lease deed, the plaintiff has produced on file a lease deed executed in the Urdu language by Gurbax Singh dated 09.07.1968.

Both the Courts below after appreciating the evidence available on the file decreed the suit filed by the plaintiff.

I have heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by both the Courts below.

Learned counsel for the appellant has submitted that the adverse possession in the present case stands proved because it is the admitted case of the plaintiff that he is neither paying the rent nor vacating the possession. He has submitted that even if the possession from the year 1956 is ignored, still after the expiry of the lease deed which was only for a period of one year in the year 1969, possession of the plaintiff is adverse. Next argument of the learned counsel is that Gurbax Singh has not executed the lease deed in the year 1968.

Government of Jammu and Kashmir has produced on file a copy of the lease deed executed more than 30 years back. Defendant did not lead any evidence to establish his case that the lease deed does not bear the signatures of Gurbax Singh.

I have considered the submissions. However, I do not find any substance therein.

A lessee who has entered into the possession of the property with the permission, cannot claim the adverse possession unless he asserts

an overt act to prove that his possession has become adverse from a particular date. Even if a lessee remains in possession after the expiry of the term of the lease, his possession can never become adverse unless some overt act at a particular time is asserted and proved.

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

Regular Second Appeal is dismissed.

23.01.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No