

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

RSA No.1331 of 2017

Date of Decision: July 18, 2018

Paramjeet Singh and another

...Appellants

Versus

Ajay Mehta

...Respondent

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Manoj Kumar Sood, Advocate for
the appellants.

HARINDER SINGH SIDHU, J.

The plaintiffs have filed this Regular Second Appeal assailing the judgments of the courts below, whereby, their suit for permanent injunction had been dismissed.

The plaintiffs had filed the suit for permanent injunction for restraining the defendants from interfering in their peaceful possession over the suit property as well from dispossessing them from the same and for restraining the defendants from raising illegal construction over the suit property.

The case of the plaintiffs was that plaintiff No.1 was absolute owner in possession to the extent of half share of the land measuring 0 kanal 07 marlas as mentioned in part 1 Para No.1 of the plaint and plaintiff No.2 was owner in possession of the portion measuring 105 sq. yds as fully detailed in part No.2 of para No.1 of the plaint. It was stated that the

property was known as House No.970/3, Jawahar Colony, NIT, Faribadad

having an area of 210 sq. yds. It was their case that the property was purchased by plaintiff No.1 from Bucha Singh son of Nathwa Singh who sold the property to plaintiff No.1 on the basis of Jamabandi for the year 2003. Plaintiff No.2 had purchased the property from one Rameshwar Singh son of Asa Ram. The vendors of both the plaintiffs had also delivered possession of the suit property at the time of execution of the sale deed. Hence, they were owners in possession of the suit property. Claiming that the defendants had no right, title or interest over the suit property, the suit was filed.

The case of the defendant was that he was the absolute owner of the suit property having purchased it through registered sale deed dated 15.11.2007 from Ramesh Rani daughter of Des Raj son of Dusandhi and Rajender son of Des Raj son of Dusandhi. It was further stated that initially the property was owned and possessed by Des Raj who had purchased it from Nathwa son of Kishan Chand through registered sale deed. After the death of Des Raj, Ramesh Rani and Rajinder Kumar were his only legal heirs as his wife Smt. Murthi had pre-deceased him. The defendant on purchase of the suit property from Ramesh Rani and Rajinder had acquired a valid title thereto. After purchase of the property, the defendant had carried out necessary alteration, renovation in the same and was residing there.

The Ld. trial court noted that it was the admitted case of the plaintiffs that they have purchased the property from co-sharers without getting the land partitioned by metes and bounds. It was noticed that in the jamabandi for the year 2003-04, Ex. PW-5/A, Bucha Ram, the vendor of the plaintiffs, was shown as co-sharer in possession to the extent of 1/7th share in

the entire property which had been described as such in the sale deeds Ex.PW-2/A and Ex.PW-2/B respectively. In both the sale deeds, it has been mentioned that the land to the extent of the share of vendor Bucha Singh only had been sold. It was thereby concluded that the plaintiffs had purchased share only and not a specific portion. Without obtaining partition, the plaintiffs could not claim their possession over a specific portion. They had also not got the property demarcated from any revenue official. They had not been able to bring any evidence on record to prove their exclusive possession over the suit property. Moreover, the Local Commissioner in his report had recorded that some articles of the defendant were found lying in the suit property when he visited the spot. This proved the possession of the defendant. In view thereof, the suit was dismissed.

Before the Ld. Lower Appellate Court, the plaintiffs filed an application for leading additional evidence seeking to place on record the site plan of the property to depict the clear identity of the property. The application was dismissed by the Appellate Court by holding that the plaintiffs could not be permitted to fill in the lacunae or patch up the weak points. As there was no evidence on record to establish the exclusive possession of the the plaintiffs over the suit, the appeal of the plaintiffs was dismissed. The findings of the trial court were affirmed. It was also noted that the sale deed Ex.DW-3/2 in favour of the defendant was prior in point of time to the sale deed in favour of the plaintiffs. The plaintiffs ought to have got the suit property demarcated from the revenue officials.

The findings of fact have been recorded by the courts. It has not

record. No substantial question of arises for decision in this case.

Accordingly, there is no merit in the appeal and the same is hereby dismissed.

July 18, 2018
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No