

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

RSA-1103-2018

Date of Decision: May 18, 2018

Kamal Kumar Chopra and another

...Appellants

Versus

General Public and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Raghunandan Sharma, Advocate,
for the appellants.

ARUN PALLI, J. (ORAL)

Suit filed by the Appellants-plaintiffs was dismissed by the Trial Court, vide judgment and decree, dated 24.02.2015. As even the appeal preferred against the said decree failed and was dismissed by the Appellate Court, on 21.12.2016, they are in Regular Second Appeal before this Court. The parties to the *lis*, hereinafter shall be referred to their original position in the suit.

The plaintiffs prayed for a declaration that they are the legal heirs of late Jagat Ram Chopra, and be also declared that they are co-owners in possession of the suit property, i.e. Shop No. B-199, measuring 35 square yards, situated at Nehru Ground, New Township, Faridabad, to the extent of 1/4th share each.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded, that for plaintiffs to succeed, they were required to prove that the suit property was indeed owned by their deceased father, to the extent of 1/2 share. However, besides the oral testimony of the plaintiffs, no documentary evidence was brought on record

to show that late Jagat Ram Chopra held title to the suit property to the extent of 1/2 share. Likewise, for the plaintiffs claimed themselves to be the only legal heirs of late Jagat Ram Chopra, they ought to have led appropriate evidence to establish their relationship. But they failed to produce any evidence in this regard. Although, before the first appellate Court, it was sought to be urged that the plaintiffs had produced a copy of the sale deed (Ex.P1), and death certificates of their mother and father, as also the Aadhaar Card, but concededly those documents were never tendered in evidence, and, were merely placed on record as Annexures P-1 to P-5. Thus, could never be read into being inadmissible in evidence. Significantly, no application was moved either to produce any such documents even by way of additional evidence either before the appellate Court or this Court. Further, pursuant to the notice issued to the defendants, Shri Anand Kumar, Kanungo, had appeared on 28.05.2014, on behalf of defendant Nos. 2 and 3, and made a statement that as per record/register of the Government of India, the suit property has since been auctioned by the Ministry of Rehabilitation, on 11.06.1960, for Rs.950/-, in favour of one Satnam Singh. Even a sale certificate had since been issued in the name of the auction purchaser, as back as on 14.08.1961. Accordingly, the appellate Court observed that even in the grounds of appeal, preferred against the decree rendered by the Trial Court, the plaintiffs did not controvert the statement made by the Kanungo or set up a plea that the said statement was incorrect or false. Thus, the plaintiffs, rather, were guilty of concealing true and material facts. Since the plaintiffs failed to prove the ownership/title of late Jagat Ram Chopra, qua the suit property, as also that they were his heirs, the only and the inevitable

conclusion that could be reached was: suit was liable to be dismissed. On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the conclusions arrived at by both the courts were either contrary to the record or suffered from any material illegality.

No question of law, much less any substantial question of law arises for consideration. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

May 18, 2018
P Kapoor

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO