

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4705 of 2014 (O&M)

Date of Order: 18.07.2018.

Madan Lal

..Appellant

Versus

Rajender Pal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Balraj Gujjar, Advocate,
for the appellant.

Mr. Mani Ram Verma, Advocate,
for respondent nos.1 to 3.

ANIL KSHETARPAL, J(Oral)

Defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below while decreeing the suit for possession with a consequential relief of permanent injunction.

It is not in dispute that the plaintiffs-respondents are owners of the property. It is further not in dispute that the plaintiffs filed a Civil Suit no.56 of 2002, which was dismissed on 23.03.2005. However, the court found that the plaintiffs are the owners and defendant is in possession of the property and the plaintiffs can take possession of the suit land from the defendant in due course of law. Paragraph 22 of the judgment in the previous suit is extracted as under:-

“22. In view of my above discussion and observations, issues no.1, 2 and 4 are decided to the effect that the plaintiffs are the owners of the suit property but the defendant is in possession over the suit property and the revenue records in the name of defendants are perfectly

valid and the plaintiffs can take the possession of the suit land from the defendant in due course of law. Therefore, issue no.1 is partly decided in favour of the plaintiffs to the effect that the plaintiffs are the owners of the suit land and the remaining part of issues no.1, 2 and 4 are decided against the plaintiffs.”

Immediately, thereafter, plaintiffs filed the present suit for possession. Defendant-appellant has pleaded that he had perfected his title by way of adverse possession.

Counsel for the appellant insisted that father of the plaintiffs have filed a suit in the year 1987 which was dismissed for non-prosecution but effect of the aforesaid judgment has not been considered.

Learned counsel for the appellant is factually incorrect. This fact has been considered by the first appellate court in paragraph 17 of the judgment. It is not in dispute that the earlier suit passed in the year 1987 was not decided on merits.

Both the courts have noticed that the litigation was pending and therefore the possession of the property by the defendant cannot be said to be uninterrupted. In such circumstances, this court does not find any good ground to interfere particularly when learned counsel for the appellant could not point out any perversity or misreading of evidence by the courts below.

The regular second appeal is dismissed.

July 18,2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No