

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

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**RSA-1893-2017 (O&M)
Date of Decision : 20.8.2018**

Narinder Kumar

....Appellant

vs.

Shiv Lal and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Sandeep Bansal, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing a suit filed by the appellant.

The case of the appellant was that he had purchased 1 Kanal and 8 Marlas of land in the year 2003 from his uncle (Mama-mother's brother i.e. respondent No.1-Shiv Lal) and had constructed his house thereon and had sought declaration that he was the owner thereon and consequential relief of injunction restraining the respondent from interfering in his possession. The respondent No.1 filed consenting written statement. The case of the respondent No. 2 to 6 was that infact the appellant was the son of Ram Piari and the respondent No.3 and the respondent No.1 were siblings and actually respondent No.3 and the mother of the appellant had purchased the entire property from their brother (respondent No.1 in the year 1997) in equal shares and Ram Piari had constructed the house in her half share while the remaining half share belongs to respondent No.3.

Interestingly, the appellant did not file any replication denying that sale deed of the year 1997 which had been executed by Shiv Lal in favour of his sisters. The suit proceeded and ultimately, as mentioned above both the Courts held that the appellant was the owner of only that half of the land where his house was constructed and dismissed the suit. That is how the appellant is before this Court.

Learned counsel has argued that the sale deed of the year 1997 was never placed on record but that can be said about the sale deed of the year 2003 also. Counsel has further argued that as regards sale deed of the year 2003 there is no denial by the respondents thereon but that can be said about the sale deed of the year 1997 also because that fact was pleaded in the written statement for the first time and the appellant never filed any replication to the same.

In the totality of the circumstances, I am not persuaded to hold that the findings of the Courts below are either based on no evidence or on such perverse misreading of the evidence so as to render them liable for interference in second appeal.

Consequently, the appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

20.8.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No