

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-1967-2017 (O&M)

Date of decision: July 25, 2018

Rohtash & others

...Appellants

Versus

Kailash Chand and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. J.P. Sharma, Advocate for the appellants.

Rajan Gupta, J.

This order shall dispose of two appeals i.e. FAO No.1967 of 2017 and FAO No.5709 of 2017, both preferred by Rohtash and others appellants, to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff Kailash Chand filed a suit for declaration and permanent injunction against defendants with the averments that he is owner in possession of a plot as mentioned in the plaint, situated in Mohalla Salampura, Narnaul, which he had purchased vide sale deed No.395 dated 20.6.1996, whereas defendants had no concern with the same. However, defendants tried to encroach upon the suit property and removed its wall, shown with letters 'EF' in the site plan. Notice of the suit was issued to the defendants, who resisted the suit denying ownership and possession of plaintiff over the suit property. Plaintiff in connivance with Ashok, Banshi and Prem procured a forged sale deed to

grab plot of defendant Chameli Devi. The trial court after hearing both the parties and perusing the evidence, partly decreed the suit of the plaintiff to the effect that plaintiff is owner of suit property as shown in site plan Ex.P1, marked by letters EFGH, but relief of injunction was denied to him. Aggrieved against the judgment passed by the trial court, both parties preferred separate appeals. Vide judgment and decree dated 08.11.2016, passed by Additional District Judge, Narnaul, appeal filed by respondent/plaintiff Kailash Chand was allowed, granting him relief of injunction, observing that plaintiff is entitled for the relief of injunction he being owner in possession of the suit property. However, appeal filed by appellants Rohtash etc. was dismissed.

I find no infirmity with the findings arrived at by the courts below. The first appellate court has rightly observed that since defendants tried to interfere in the suit property owned by the plaintiff, he was also entitled to the relief of injunction. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged. Both the appeals are hereby dismissed.

(RAJAN GUPTA)
JUDGE

July 25, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No