

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

**RSA No.1863 of 2018
Date of Decision.21.05.2018**

Jai Parkash

...Appellant

Vs

Kalu Ram

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gursimran Singh Madaan, Advocate
for the appellants.

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AMIT RAWAL J.(ORAL)

The appellant-defendant is aggrieved of the concurrent finding of fact whereby the suit of the respondent-plaintiff for possession and mesne profits in respect of shop bearing No.19 and 20 situated at Balram Market, Guruhar Sahai, Tehsil Guruhar Sahai, District Ferozepur has been partly decreed by the trial Court and upheld by the lower Appellate Court.

Mr. Gursimran Singh Madaan, learned counsel appearing on behalf of the appellant submitted that the respondent-plaintiff instituted the suit for claiming possession of the shops aforementioned on the premise that he was owner in possession and the defendant had illegally dispossessed the plaintiff on 02.11.2013 and thus, filed the suit on 22.11.2013.

The aforementioned suit was contested by the appellant-defendant on the premise that plaintiff and defendant are real brothers whereas the defendant had been running a flour mill in the rented shops No.19, 20 and 21 owned by the Municipal Committee, Gurhar Sahai. There was electric connection of 25 BHP in his name and is in

possession since 1990. The plaintiff had relinquished his right in the aforementioned property vide receipt dated 8.6.1990 against valuable consideration of ₹18,000/- The plaintiff had brought on record only 11 documents whereas the appellant-defendant tendered documents Ex.D1 to Ex.D138 which showed electric connection, municipal house tax, income tax returns, statement of account and the aforementioned receipts Ex.D90.

The Courts below did not render finding against the appellant-defendant for having not led any evidence on issue No.3 with regard to suit being barred by law of limitation. In case, the receipt Ex.D90 had not been proved, possession of the appellant-defendant had been uninterrupted, continuous, hostile and acquired title by way of efflux of time, thus, urges this Court for setting aside the finding under challenge as there has been misdirection of the oral as well as documentary evidence.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Gursimran Singh Madaan. The documents exhibited before the trial Court have been shown to this Court during the course of hearing of the appeal. All the documents with regard to shop in dispute are only post litigation, which would not help the defendant for bringing the case under Article 65 of the Limitation Act. On the contrary, the respondent-plaintiff had proved the ownership of the shops in question. The receipt dated 8.6.1990 emphatically relied upon by the appellant-defendant would not confer title upon him as the aforementioned document had value of more

than ₹100/- and required registration, thus, cannot be treated as relinquishment deed.

All these factors weighed in the mind of the Courts below. The argument of learned counsel for the appellant has not been able to bring the case within the realm of illegality and perversity enabling this Court to form a different opinion than the one already arrived at, much less, no substantial question of law arises for determination by this Court. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 21, 2018
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No