

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

RSA-2009-2018 (O&M)

Date of decision: September 07, 2018

Jagdish (now deceased) through his
LRs & others

...Appellants

Versus

Sham Lal

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Suresh Kumar Kaushik, Advocate for the appellants.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/respondent Sham Lal filed a suit for permanent injunction against the defendant/appellants, restraining them from interfering into his peaceful possession and from raising construction over the suit property as detailed in the plaint. It was alleged that plaintiff alongwith his brother namely, Tirath Ram is owner in physical possession of a residential plot/gitwar, situated within the old Abadi of village Budhera, District Gurgaon, in view of sale deed dated 16.10.1962. Plaintiff also erected Kucha mud walls around the said plot and made a *Chhappar* therein. With the passage of time, due to heavy rain the mud walls were demolished. The defendants with the intention to grab the said property started threatening to dispossess the plaintiff from the said

plot forcibly and illegally. Suit was resisted by the defendants. In their written statement, they denied all the averments made in the plaint and pleaded that plaintiff was not in possession as owner of the suit property, whereas defendants are owners in possession of the same. After hearing both the parties and perusing oral as well as documentary evidence, the trial court decreed the suit. It observed that plaintiff has fully proved his ownership of the suit property by way of sale deed Ex.P1 alongwith site plan Ex.P2. Evidence led by the plaintiff had gone unrebutted. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. 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.

Dismissed.

CM-5572-C-2018:

Since the main appeal has been dismissed on merits, this applications for condonation of delay does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

September 07, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No