

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

RSA No. 2351 of 2018

Date of decision : 08.08.2018

Shiv Kumar

....Appellant

V/s

Prem Buta Sharma & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Veneet Sharma, Advocate for the appellant.

RAJAN GUPTA J.

Present appeal is directed against the judgments of two courts below whereby suit filed by respondents no. 1 & 2 for possession and mesne profits has been partly decreed. Learned counsel for the appellants submits that judgments passed by both the courts below are illegal and against the material on record. According to him, courts below have not taken into consideration the fact that plaintiffs-respondents no. 1 & 2 have miserably failed to prove their title over the suit property of which they are seeking possession yet suit has been decreed in their favour. Thus, impugned orders deserve to be set-aside.

I have heard learned counsel for the appellant.

Brief factual background of the case is that suit for possession and recovery of mesne profits etc was instituted by plaintiff-respondents no. 1 & 2 on the averments that property bearing no. 978/V-7, Bazaar Lachhmansar, opposite Chhan Gali, Amritsar was owned by their father.

After the death of their parents, they inherited the suit property and let out its

one room on the first floor to their cousin namely Shakuntla Devi @ Kundlo on a monthly rent of ₹500/-. It was pleaded that Shakuntla Devi was an issueless widow and under the guise of serving her, appellant alongwith his family members started living with her. After the death of Shakuntla Devi, appellant illegally occupied the said premises and the remaining portion of the first floor by breaking open the locks. In August 2004, he even occupied the vacant portion on the ground floor of the said property. Upon notice, suit was contested by appellant-respondent no. 1. He denied the ownership of respondents no. 1 & 2 on the ground that property in question was sold by their mother to Shakuntla Devi @ Kundlo who was her mother. Thus, he became the owner of the said property by way of adverse possession as he was residing alongwith his family since 1965. After examining the evidence led by both the parties, trial court came to the conclusion that defendant no. 1-appellant was in unauthorized possession of the demised premises and partly decreed the suit to the effect that plaintiffs were entitled to possession over the suit property alongwith mesne profits of ₹82,500/-. It also directed the defendant-appellant to hand-over the vacant possession of the premises within two months. Aggrieved, appeal was preferred before the lower appellate court. It, however, arrived at the same conclusion and dismissed the appeal.

It appears that appellant has miserably failed to prove his ownership/entitlement over the property in question. Both the courts held that appellant-defendant has not been able to prove his case on any front. Neither he has been able to prove his ownership by way of agreement to sell nor by way of adverse possession. I am, thus, of the considered view that both the courts below have correctly appreciated the evidence on record. No

other substantial question of law has been urged requiring adjudication in second appeal. Same is hereby dismissed.

August 08, 2018
Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No