

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

107

**RSA No.31 of 2017 (O&M)
Date of Decision : 26.07.2018**

Bhag Singh and others

..... Appellants

Versus

Mehar Chand and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Dharam Pal Brinda, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

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

The case of the respondents was that the land under the shop in dispute was allotted to Karnail Singh and after allotment Karnail Singh had constructed a shop which he had sold to respondent No.1. He sought a declaration that he is owner in possession of the shop. The case of the appellants on the other hand was that in fact the property was allotted to Avtar Singh and after his death they being his heirs had become owner in possession. The respondent No.1 proved on record the allotment letter in favour of Karnail Singh while before the trial Court no evidence was led by the appellants that the property had ever been allotted to Avtar Singh.

Consequently the suit was decreed. During the appeal the appellants moved

an application for additional evidence stating that after the death of Avtar Singh they had found in his papers an agreement whereby Karnail Singh had transferred his interest in the property to Avtar Singh and they consequently, sought to argue that after Karnail Singh had transferred his interest in the property to Avtar Singh he had nothing left to transfer in favour of respondent No.1. The appellate Court refused to consider this evidence on the ground that this was contrary to the pleadings of the appellants because in their written statement they had claimed that Avtar Singh was the allottee of the property.

Learned counsel for the appellants has not been able to justify how this document can be considered in view of the pleadings of the parties. Once that is so, no fault can be found with the judgments of the Courts below.

Appeal stands dismissed.

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

(AJAY TEWARI)
JUDGE

26.07.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No