

**144**

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

**R.S.A No. 3257 of 2017 (O&M)  
Date of Decision:- 01.11.2018**

Thulla Singh @ Harjinder Singh & Anr. ....Appellants

Versus

Sham Lal (D) through LRs & Ors. ...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.J.S.Cooner, Advocate, for the appellants.

**AMIT RAWAL J. (Oral)**

Appellants-defendants have not been successful in defending the suit despite contesting the same before the trial Court as well as lower appellate Court. Respondents-plaintiffs instituted that suit restraining the appellants-defendants and their agents from forcible interference and dispossession as they had been in continuous possession for the last many years. Plaintiffs were also compensated to the damage cause to the crop due to floods by the State Government. It was alleged that in 1997 amount of Rs.10,000/- was obtained as loan from Hamir Singh, who was brother of defendant Nos. 2 to 4 and father of defendant No.1. In this view of the matter he had taken certain thumb impressions on some blank papers. The amount of loan was returned but the papers were retained and created a false agreement resulting into extension of threats.

Appellants-defendants filed a written statement denied the possession of the plaintiffs over the suit land and claimed to be in cultivating possession of the suit land since 1997. It was alleged that

plaintiffs vide two sale deeds dated 28.05.1992 and 02.06.1992 sold the land to Bant Singh, Hamir Singh etc.. Even an agreement to sell dated 11.06.1997 was also executed in favour of Hamir Singh father of defendant No.1. Thereafter, the defendants were proceeded ex-parte. The trial Court on the basis of the evidence brought on record decreed the suit. As noticed the appeal was also dismissed.

Mr. J.S. Cooner, learned counsel appearing for the appellants submitted that the lower appellate Court ought to have remitted the case to the trial Court and given liberty to lead evidence as the unrebutted evidence of the plaintiff was liable to be refuted particularly the receipt of the compensation whether it pertained to the property in dispute or some other. Therefore there is a gross illegality and perversity.

I am afraid that the afore-mentioned argument made by learned counsel for the appellant is not sustainable and maintainable. In order to prima facie establish aforementioned assertions, it was obligatory on behalf of the defendants to move an application for additional evidence along with grounds of appeal but the lower appellate Court had been prevented to notice, while dismissing the appeal. No such application has been filed with the present appeal too. The declaration can always be claimed in independent proceedings as title in the present suit was not involved.

In view of the above, the present appeal is dismissed.

**November 01, 2018**  
**tripti**

**(AMIT RAWAL)**  
**JUDGE**

Whether speaking/reasoned : Yes/No  
Whether Reportable : Yes/No