

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 3239 of 2018(O&M)

Date of Decision: 18.07.2018

Achhro

---Appellant

versus

Gurwinder Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Gaurav Singla, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for permanent injunction restraining the appellant-defendant and her agents from changing nature of the suit property by way of construction and decreasing/increasing value of the suit property was decreed by the trial court vide judgment and decree dated 25.10.2017 that came to be affirmed in appeal by the District Judge, Rupnagar on 28.3.2018.

The sole submission made by counsel for the appellant is that earlier the vendor of the respondent-plaintiff filed a suit for possession but the same was dismissed as withdrawn. It is further argued that as the appellant has become owner of suit land by way of adverse possession, courts have grossly erred by exercising its discretionary jurisdiction to grant equitable relief of injunction in favour of the respondent-plaintiff. It is further argued that the courts have failed to appreciate in right perspective the materials on record to substantiate plea of the appellant that he has become owner of suit land by way of adverse possession.

I have heard counsel for the appellant, perused the paper book particularly the judgments passed by the courts.

Be that as it may, the respondent-plaintiff claimed his right of injunction qua the suit land on the basis of two sale deeds executed by Dalbara Singh on 30.9.2010 and other by Mewa Singh and another on the same date in respect of land measuring 18 kanal 17 marlas. The appellant/defendant in the written statement has raised a plea that she had become owner of the suit property on the basis of adverse possession. The fact that the appellant has claimed herself to be owner on the basis of adverse possession impliedly amount to admission on her part that the respondent/plaintiff is owner of suit land.

Counsel for the appellant has failed to point out any materials particularly the averments in the written statement wherein the appellant has raised a plea as to the starting point of her hostile title that is stated to have ripened into a title in her by extinguishing title of the real owner. In this view of the matter, I do not find an error much less reason to interfere in consistent factual findings recorded by the courts that the appellant has failed to substantiate her plea that she has become owner of the suit land by way of adverse possession.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

18.07.2018

PARAMJIT	Whether speaking/reasoned	: Yes
	Whether reportable	: Yes/No