

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

**RSA No.94 of 2014 (O&M)  
Date of Decision:27.11.2018**

Shiv Charan and another

...Appellant(s)

**Versus**

Malku Ram and others

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present:** Mr.H.S.Baath, Advocate for the appellants.  
Mr.Deepak Sharma, Advocate for the respondents.

**ANIL KSHETARPAL, J.**

The plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the courts below, dismissing suit for grant of decree of perpetual injunction restraining the defendants from interfering in the peaceful possession of the plaintiffs over the plot measuring 45 foot X 48 foot.

The plaintiffs have based their claim on the basis of two agreements to sells dated 30.11.1991 and 11.1.1992. In the alternative, the plaintiffs have also claimed that they have perfected their title by way of adverse possession.

In the written statement, execution of the agreement was denied and it was pleaded that defendant No.1 had taken a loan of Rs.2,000/- from plaintiff No.1 in the year 1991. He obtained signatures on the blank papers. It was pleaded that the amount has been returned, however, signed papers were neither returned nor destroyed as promised by the plaintiff No.1. The defendants further pleaded that the property is in physical possession of the defendants.

Both the courts on appreciation of evidence have found that the plaintiffs are not proved to be in possession of the property in question.

It has come in the evidence that at one point of time, a poultry farm was constructed, however, the same had fallen down due to nature's calamity. It is also not in dispute that till date, relief of specific performance of agreement to sell has not been sought. Once, the plaintiffs are not proved to be in possession, relief of injunction has been correctly denied. Still further, even two agreements to sells have not been proved by leading any cogent and reliable evidence.

In view of the above, there is no ground to interfere. The present regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

**27.11.2018**  
**mks**

**(ANIL KSHETARPAL)**  
**JUDGE**

**Whether speaking/reasoned: Yes/No**

**Whether Reportable: Yes/No**