

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

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**CM No.10742-C-2017 in/and
RSA No.4145 of 2017(O&M)
Date of Decision : 02.04.2018**

Gurmail Singh

..... Appellant

Versus

Swaran Singh and anr.

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Kanwaljit Singh, Senior Advocate with
Mr. Gagandeep Singh Virk, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower Appellate Court reversing that of the trial Court and thereby dismissing a suit filed by the appellant.

The appellant had filed a very convoluted suit with respect to 32 odd sq. yards of land. It was pleaded that originally the land was owned by Kashmira Singh and Baljit Singh. It is further pleaded that originally they had agreed to sell about 20 sq. yards to one Amarjit Singh and the remaining to the appellant but thereafter Amarjit Singh had relinquished his claim in favour of the appellant and consequently sale deed dated 29.09.1999 was executed in favour of the appellant. It is further pleaded that the respondent had illegally entered possession of that open plot on the

basis of a sale deed in his favour from Dalip Singh and that sale deed and his possession were illegal, since Dalip Singh had previously sold the land in favour of one Ajit Singh. The case of respondent No.1 on the other hand was that he had purchased the land in dispute from Dalip Singh and he placed on record the Jamabandi showing Dalip Singh to be the owner and the sale deed in his favour.

The trial Court decreed the suit and respondent No.1 filed an appeal. The appellate Court noticed that the appellant had not placed any material on record to show the ownership of his vendor nor did he place on record the sale deed which as per him Dalip Singh had executed in favour of Ajit Singh and consequently went on to hold that the appellant had not discharged the burden that he had purchased the land in dispute. Along with this appeal an application bearing No.**CM No.10742-C of 2017** under Section 41 Rule 27 read with Section 151 CPC has been filed wherein a prayer had been made that the appellant be allowed to place on record the Jamabandies which would show the title of his vendors. The reason given for not having been placed it on the record was that the ownership of his vendor was never disputed by respondent No.1.

Both the appeal and the application have to fail. Once the appellant was asserting title through his vendors it was incumbent upon him to have proved the same and the explanation that his vendor's title was never disputed would not cut any ice. Further more once the appellant had pleaded that Dalip Singh had already sold his land in favour of Ajit Singh it was necessary for him to prove the same. Learned senior counsel has argued that that vendee (Ajit Singh) had appeared in the witness box and

opinion, verbal testimony of a written sale deed would not carry the case of the appellant further. In the circumstances, it has to be held that the appellant was not able to prove his case.

Appeal is dismissed.

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

**(AJAY TEWARI)
JUDGE**

02.04.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No