

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.4339 of 2017 (O&M)
Date of decision: 23.10.2018

Dharampal etc.

..... Appellants

Versus

Lal Singh etc.

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. J.S. Hooda, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

It is undisputed that Gordhan and Smt. Dhano transferred their 1/3rd share equivalent to 7 kanals 2 marlas through registered sale deed in favour of plaintiff No.1. It is the case of the plaintiffs that the defendants who are sons of the vendor approached them and they were permitted to reside. The defendants defended the suit by claiming that they have become owner by adverse possession. Both the Courts below after appreciating the evidence have decreed the suit filed by the plaintiffs. At the outset, it must be noticed that the plaintiffs had filed two suits and the defendants had filed two counter claims. Both the suits were decreed whereas the counter claims were dismissed. The appellants only filed appeal in one suit and allowed the findings in the other suit as well as in counter claims to become final. Learned First Appellate Court has rightly

held that the finding in the connected suit has become final and hence, operates as res judicata. Still further, both the Courts have found that the defendants-appellants have failed to prove that they have perfected their title by adverse possession. The defendant's father Gordhan was owner of the property. He sold the property in favour of the plaintiff. Still further, it is for the defendants to prove from which date and time, their possession became adverse. They have failed to prove that fact.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

Appeal is dismissed.

23.10.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No