

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

RSA No. 407 of 2018(O&M)

Date of decision: 4.4.2018

KhurshidAppellant

VERSUS

Smt. Farida and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Virender Rana, Advocate for the appellant.

REKHA MITTAL, J.(Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for permanent injunction filed by the respondents/plaintiffs in respect of land measuring 6 kanal 3 marlas comprising Khasra No.7 situated in village Sakras, Tehsil Ferozepur Jhirka, District Mewat was decreed ex parte by the trial Court and findings recorded by the trial Court were affirmed in appeal by the Additional District Judge, Mewat.

The sole submission made by counsel is that as the respondents/plaintiffs did not examine a witness to prove rapat roznamcha No.408 containing an entry that father of the appellant gave up his mortgagee rights over the suit property in favour of its owner namely Idu, reliance upon document Ex.P4 by the Courts to accept claim of the respondents/plaintiffs with regard to their entitlement to get injunction

against dispossession or interference in their possession is erroneous, therefore, judgments passed by the Courts suffer from perversity.

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

The trial Court, in para 10 of the judgment has held that portion of the suit property was purchased by Smt. Asma vide sale deed No.1612 dated 08.02.2013. As reflected in mutation Nos.16377 Ex.P2 and 16378 Ex.P3, Smt. Akhtari and Smt. Farida purchased portion of the suit property vide sale deed Nos.1611 and 1610 dated 08.02.2013 respectively. It has further been noticed that the appellant and his co-defendant have not disputed ownership of the respondents/plaintiffs but a plea was raised that defendant was mortgagee over the suit land. On the basis of rapat roznamcha No.408 Ex.P4, revenue entries were corrected in favour of the respondents/plaintiffs.

Indisputably, the appellant till date has neither challenged correctness of the rapat roznamcha nor the subsequent entries made in the revenue record, recording possession of suit land by the respondents/plaintiffs. The appellant contested the proceedings before the trial Court till recording of evidence of the respondents/plaintiffs but thereafter absented and consequently did not adduce any evidence to counter the evidence adduced by the respondents/plaintiffs.

The trial Court as well as the Court in appeal on the basis of materials on record have recorded concurrent findings accepting plea of the respondents/plaintiffs with regard to their being in possession of the suit land, thus, entitled to injunction against their forcible dispossession or

interference in their peaceful possession at the behest of appellant and his co-defendant.

As per the settled position in law, civil rights are decided on the basis of preponderance of probabilities. The very fact that the appellant opted to be absent from the proceedings and did not appear in the witness box to counter case of the respondents/plaintiffs, an adverse inference is liable to be drawn against him. In this view of the matter, I find myself unable to accept contention of the appellant that judgments passed by the Courts suffer from an error much less perversity or raise a question of law that needs determination after notice to the contesting party.

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

APRIL 4, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no