

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

**RSA No.5290 of 2017 (O&M)
Date of decision:25.05.2018**

Sudesh
Vs. ... Appellant

Pardeep and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Satbir Rathore, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the judgment and decree dated 19.05.2017 rendered by the Additional District Judge, Sonapat, whereby, the appeal of the respondent-defendants has been allowed by setting aside the judgment and decree of the trial Court.

The appellant-plaintiff instituted the suit for permanent injunction on the premise that she was owner in possession of the suit property by virtue of the sale deed dated 03.10.2012 (Ex.P1). However, the defendants wanted to forcible dispossess her and caused interference in the plot, thus, aforementioned suit was filed.

The defendants set up counter claim on the ground that they were owners in possession by way of adverse possession. After framing of the issues, parties in support of their respective cases led the evidence. The appellant-plaintiff examined four witnesses. On the other hand, the

respondent-defendants examined three witnesses. The appellant-plaintiff brought on record the photographs to show that the plot bounded by the wall and kept for tethering the cattle/buffalo had been in her possession. The trial Court on the basis of the aforementioned evidence decreed the suit as noticed above but the Lower Appellate Court reversed the findings.

Mr. Satbir Rathore, learned counsel appearing on behalf of the appellant-plaintiff submits that title follows the possession, for, respondent-defendants have admitted the title of the appellant by setting up the plea of adverse possession. The photographs brought on record unflinchingly proved the possession of the appellant-plaintiff, therefore, the trial Court rightly decreed the suit but the Lower Appellate Court abdicated in reversing the findings. While purchasing the aforementioned property, there was specific recital in the sale deed that possession had been handed over. He further submits that despite the Lower Appellate Court rendered the findings against the defendants of having not proved their possession in the revenue record, allowed the appeal.

I have heard the learned counsel for the appellant-plaintiff, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Rathore, for, it is settled law that plaintiff has to stand on his/her own legs. No documentary evidence except photographs had been placed on record. However, the plaintiff has been successful to prove the ownership in view of the fact that defendants had taken the plea of adverse possession. The only point to be pondered upon by the Court below was that whether the plaintiff had been

able to prove the possession or not. It is settled law that possession follows title and not title. The plaintiff has not been able to bring on record the sale deed, *ibid*. The remedy was to file the suit for possession. This is what the import of the judgment and decree of the Lower Appellate Court.

As an upshot of my findings, I do not find any illegality and perversity in the judgment and decree of the Lower Appellate Court being the last Court of fact and law which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

No other argument has been raised.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 25, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No