

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

RSA No.5302 of 2017 (O&M)

Date of decision: 06.08.2018

Ram Chand and others

..... Appellants

Versus

Nath Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arpandeeep Narula, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM-14179-C-2017

Application is allowed and the delay in re-filing the appeal is
condoned.

Main Case

Plaintiffs-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below while holding that the plaintiffs are trying to encroach upon a piece of land which is being used by the residents for common purposes. The plaintiffs claims that it is part of his house which is in his possession since the time immemorial. The demarcation was carried out and it was found that the plaintiffs have encroached upon certain part of the land which was being used for common purpose. Both the Courts have found that the residents have been permitted to construct their septic tank for their respective toilets and these separate tanks have been constructed with the help of the Gram Panchayat. Hence,

both the Courts have found that the plaintiffs cannot claim any exclusive possession over the land in dispute.

Learned counsel for the appellants has proposed the following substantial questions of law:-

- “1. Whether the question of titles arises in a suit for permanent injunction filed against the third party?*
- 2. Whether after proving the long possession on the property located inside the phirni (Lal Lakeer), does the question of title arises?*
- 3. Whether the judgment and decree passed by learned lower Courts below is outcome of misreading of the pleadings and evidence on record thus perverse?*
- 4. Whether the learned courts below erred in law in deciding issue No.1.*
- 5. Whether the judgment of the lower Courts below is perverse and thus not sustainable in law?”*

In the considered opinion of this Court, none of the question as proposed is a substantial question of law. It has further come in evidence that the plaintiff concealed that the property is a part of the abadi (residential area) of the village. Still further, witness appearing on behalf of the plaintiffs i.e. Salinder Singh has also admitted that the plaintiffs have encroached upon certain area which is assigned for common purposes.

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

Appeal is dismissed.

06.08.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No