

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

**R.S.A No.5315 of 2017(O&M)  
Date of decision :19.09.2018**

**Sukhdev Singh**

**..... Appellant**

**Versus**

**Ranjit Singh**

**..... Respondent**

**CORAM : HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr.K.D.S.Sodhi, Advocate  
for the applicant-appellant.

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**LISA GILL,J**

Appellant-defendant is aggrieved of judgement and decree dated 24.04.2015, passed by learned Additional Civil Judge (Sr. Division), Mansa, as well as judgement and decree dated 11.07.2016, passed by the learned Additional District Judge, Mansa. Suit filed by the plaintiff was decreed.

Brief facts necessary for the adjudication of the case are that respondent-plaintiff-Ranjit Singh filed a suit for possession of land measuring 6 Kanals as detailed in the plaint. It was pleaded that Uttam Singh and Karnail Singh residents of Khara Tehsil and District Mansa were the owners in possession of land measuring 6 Kanals. Respondent-plaintiff purchased the said property vide sale deed dated 19.04.2011, therefore became owner in possession thereof. Mutation No. 4886 dated

30.04.2011 was sanctioned on the basis of the sale deed. Plaintiff started utilising the land by cultivating the same. However, after harvesting of *Harri* crop of 2011, all the four defendants including the present appellant took forcible possession of the land from him even though they had no concern with the suit property. They refused to handover the possession to the plaintiff. Therefore, the suit was filed.

Defendants resisted the suit while taking various preliminary objections. Averments on merits were controverted. It was pleaded that the present suit was filed by the plaintiff after filing of a civil suit by the appellant-defendant, titled as 'Sukhdev Singh Vs. Ranjit Singh on 24.06.2011. The appellant stated that two rooms stood constructed over the suit property by the appellant-Sukhdev Singh, who had spent a sum of ₹1.5 lakhs about 6 to 7 years ago. A Kinnu orchard over the suit property was stated to have been planted by the present appellant. Plaintiff as well as Uttam Singh and Baggu Singh never raised any objection thereto. Appellant, it was pleaded was in possession of the suit land since 13.04.1997. His possession was open, continuous, peaceful, uninterrupted and hostile qua the owners. Plaintiff-respondent was stated to be the son-in-law of Uttam Singh and merely sought to dispossess the appellant forcibly. Sale deed dated 19.04.2011 was alleged to be forged and fabricated. It is further stated that Karnail Singh and Uttam Singh were not the owners of the suit property after 13.04.2009. Sukhdev Singh was in possession thereof. Dismissal of the suit was prayed for.

Replication was filed by the plaintiff, controverting the averments of the defendants. From the pleadings of the parties, the

following issues were framed by the learned trial Court:-

1. Whether the plaintiff is owner of suit land measuring 6 Kanals?OPP
2. Whether the plaintiff is entitled to the relief of possession as prayed for?OPP
3. Whether the proper court fee has not been affixed by the plaintiff?OPD
4. Whether suit is bad for mis joinder and non joinder of necessary parties?OPD
5. Whether the suit of the plaintiff is barred by the limitation?OPD
6. Whether defendant-Sukhdev Singh has become owner in possession of the suit land by way of adverse possession?OPD
7. Whether the plaintiff has concealed true facts from the Court?OPD
8. Relief.

Both the parties led evidence in support of their respective claims.

Learned trial Court concluded that the appellant-defendant-Sukhdev Singh failed to prove that he is in possession of the suit land since the year 1997 or that his possession is adverse in any manner. Therefore, the suit filed by the plaintiff was decreed.

Appeal filed by the present appellant was also dismissed by the learned Additional District Judge, Mansa, vide judgement and decree dated 22.08.2016.

Aggrieved therefrom, the present appeal has been filed.

Learned counsel for the appellant vehemently argues that the possession of the appellant-defendant is clearly proved to be adverse. Learned Courts below have wrongly ignored the evidence on record in this respect. Plaintiff-respondent did not deny the possession of the appellant over the suit property. It is thus prayed that the impugned judgements and decrees be set aside and the suit filed by the plaintiff-

respondent be dismissed throughout.

I have heard learned counsel for the appellant and have gone through the file with his able assistance.

Sale deed dated 19.04.2011 has been duly proved by the respondent-plaintiff. PW-1-Uttam Singh, one of the vendor's of the sale deed as well as PW-3-Surjit Singh, an attesting witness of the said sale deed have supported the claim of the plaintiff. Appellant-defendant has taken the plea of adverse possession. The appellant claims to be in possession of the suit land since 13.04.1997, his possession being hostile, open, uninterrupted, without any objection from the owners.

*Per contra*, the plaintiff-respondent alleged that forcible possession of the suit property was taken by the appellant after harvesting of the *Harri* crop of 2011. Appellant in his written statement claimed to be in possession of the suit land since 13.04.1997, while in cross-examination, he submitted that he was in possession of the suit land since the last 27-28 years. Ex.P-3 and Ex.P-4 i.e. the Khasra Girdawaries do not reflect possession of the appellant from 1998-99 till the year 2005-06. In the civil suit filed by the appellant seeking permanent injunction, he has specifically pleaded that he was in possession of the suit property since 2006. Certified copy of the said suit and pleadings are Ex.P-5 to Ex.P-7. As per order dated 24.04.2008 (Ex.D-4), relied upon by the appellant reveals that correction in the Khasra Girdawri was ordered to be made from *Sauni* 2006. Appellant has indeed failed to prove that his possession over the suit land is continuous and hostile for a period of more than 12 years.

Learned counsel for the appellant-defendant is unable to point out any question of law much less substantial question of law which may be involved for consideration in this regular second appeal. Both the impugned judgements are well reasoned judgements rendered after proper appreciation and consideration of the evidence on record.

No other argument has been raised.

Keeping in view the facts and circumstances as discussed above, the impugned judgements and decree dated 24.04.2015 and 11.07.2016 passed by the learned Addl. Civil Judge (Sr. Division) Mansa and learned Additional District Judge, Mansa, respectively, are upheld.

There is a delay of one hundred and sixty five (165) days in filing of this appeal. Keeping in view the fact that the matter has been decided on merits, the question of delay in filing of this appeal has been rendered academic. Application is accordingly disposed of.

Present appeal is, consequently, dismissed with no order as to cost.

**19.09.2018**

s.khan

**(LISA GILL)  
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No