

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

RSA-5577-2018 (O&M)

Date of decision: October 04, 2018

Suraj Mal and another

...Appellants

Versus

Umed Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rahul Deswal, Advocate for the appellants.
Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/respondent filed a suit for possession with consequential relief of permanent injunction against the defendant/appellants, with the averments that defendants had encroached upon and occupied some portion of land measuring 09 Marlas, in Khewat No.7/7, Khatoni No.7, Killa No.105 *Gair Mumkin* house, situated in village Udeshipur, District Sonapat. It was pleaded that plaintiff alongwith his cousins namely, Kartar Singh and Sultan Singh was co-sharer in joint possession of land measuring 14 Kanals 14 Marlas in the aforesaid Khewat, which was earlier used by them for agricultural purposes. Defendants had forcibly encroached upon a portion of the suit property. Suit was resisted by the defendants. In the written statement they, however, admitted ownership of the plaintiff and his cousins over the suit property, but averred that their grandfather namely, Udey Singh had entered into possession over the

disputed area of the said property on 01.01.1961, who had also raised construction thereon and also got installed an electricity connection in the year 1962. Other averments made in the plaint were also denied. After hearing both the parties and perusing oral as well as documentary evidence, the trial court decreed the suit, directing defendants to hand over the peaceful vacant possession of the disputed area to the plaintiff. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. Though defendant/appellants were in possession of the disputed area for over a period of 12 years without any right, title or interest, but it does not mean that they had perfected their title by way of adverse possession. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

CM-15397-C-2018:

Since the main appeal has been dismissed on merits, this applications for condonation of delay in re-filing the appeal does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

October 04, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No