

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

RSA No.6224 of 2017  
Date of Decision:16.01.2018

Naveen Kumar and another

...Appellants

**Versus**

Ramesh Kumar and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present:** Mr.Sudhanshu Makkar, Advocate for the appellants.

**ANIL KSHETARPAL, J. (ORAL)**

Defendants No.10 and 11/appellants are in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

Plaintiff had filed a suit for declaration, claiming that he is owner in possession of his share of land and the revenue entries continuing in the name of the defendants are incorrect. The plaintiff further pleaded that originally Sheo Parshad and Shiv Kumar were the owners of the land to the extent of 1/5<sup>th</sup> share and they suffered a decree in favour of father of the plaintiff, i.e. Hari Parshad on 23.5.1988.

It is further case of the plaintiff that the total land owned by Sheo Parshad and Shiv Kumar was in three Khewats. The revenue authorities corrected revenue entries in two Khewats and however, in Khewat No.228 entries, continued in favour of Sheo Parshad and Shiv Kumar . It is further case of the plaintiff that he has constructed his residential house on the land in dispute.

The plaintiff further pleaded that defendants No.1 to 9, who are Sheo Parsad and successor in interest of Shiv Kumar, have illegally sold the

property in favour of defendants No.10 and 11, vide sale deed dated 9.6.2008.

Only defendants No. 10 and 11 contested the suit. Existence and validity of the judgment and the decree dated 23.5.1988 was disputed. The defendants further pleaded that they are bonafide purchasers.

Both the learned courts below, after appreciating the evidence available on the file, recorded a concurrent findings of fact that the decree dated 23.5.1988 was suffered by Sheo Parshad and Shiv Kumar in favour of Hari Parshad, father of the plaintiff. Hence Hari Parshad had become the owner of the property. The courts below further held that in two Khewats revenue authorities corrected the entries, whereas in Khewat No.228 revenue entry was not corrected. With these findings, the court have decreed the suit.

I have heard the learned counsel for the appellants at length and with his able assistance gone through the impugned judgments passed by the courts below.

Learned counsel for the appellants has vehemently argued that the suit is not maintainable, in view of the proviso to Section 34 of the Specific Relief Act as the plaintiff did not seek consequential relief of permanent injunction.

I have repeatedly requested the learned counsel for the appellants to show that consequential relief of permanent injunction was necessary, however, he could not give any satisfactory answer. Still further, Section 34 of the Specific Relief Act provides that a discretion is available to the court to decree a suit for declaration with respect to any legal character or to any right as to any property. Proviso to Section 34 lays

down that if a plaintiff is able to seek further relief than a mere declaration of title on the same cause of action and omits to do so, the court shall not grant such declaration.

In the present case, the plaintiff has sought declaration, claiming ownership and further sought relief that the entries in favour of the plaintiff be ordered to be corrected. In the considered opinion of this Court, once the plaintiff claims and found to be in possession, the plaintiff was not required to pray for any further relief.

In view of the discussion made above, there is no good ground to interfere in the concurrent findings of fact arrived at by the courts below. Accordingly, the present regular second appeal is dismissed.

**16.01.2018**  
**mks**

**(ANIL KSHETARPAL)**  
**JUDGE**

**Whether speaking/reasoned: Yes/No**

**Whether Reportable: Yes/No**