

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

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**RSA-6236-2017 (O&M)
Date of Decision : 08.03.2018**

Smt. Tarawati

..... Appellant

Versus

Jeeta and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Sanjay Vashisth, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower Appellate Court reversing that of the trial Court and thereby dismissing a suit for permanent injunction filed by the appellant.

The appellant had claimed that she was in lawful possession of the suit property measuring 121 sq. yards since at the time of the filing of the suit she had an agreement to sell in her favour whereby entire money had been paid and the possession had been handed over to her. It was her case that the respondents were trying to block her ingress and egress by encroaching upon her property and she had sought an injunction. It is not disputed that during the pendency of the suit the sale deed of the property in question was also executed in favour of the appellant. As per the appellant, she had sought a report from the BDPO regarding the possession and demarcation of the property since it was situated within the lal dora and that

by her was shown to be in her possession. The case of the respondents was that the boundaries given by the appellant in the site plan were incorrect and they claimed that they were owners in possession of the suit property since time immorial in which there were two pucca rooms, one being used for bhussa and other for tying of cattle. They further denied that the appellant purchased the suit property and claimed that the alleged sale deed was forged and obtained by fraud. The trial court relied upon the agreement to sell, the sale deed and the report (Ex.PW-3/B) to hold that the appellant had established her title and possession and consequently decreed the suit. In an appeal filed by the respondents, the lower appellate court noticed that as per the appellant her vendor had obtained the share of his first cousin once removed who had also left behind a son and there was no valid explanation why his share had gone to a cousin. The lower appellate court further noticed that the only person who could explain this stand would be the vendor of the appellant but that vendor did not appear in the witness box. The lower appellate court further refused to give credence to the report Ex.PW-3/B since it was obtained behind the back of the respondents after the institution of the suit. Consequently, the lower appellate court held that neither the appellant was able to prove her title nor her possession and allowed the appeal and dismissed the suit.

Counsel for the appellant has not been able to explain how the vendor of the appellant came into the share of his cousin to the exclusion of the son of the cousin.

Consequently, it has to be held that the appellant has not been able to prove her title.

As regards the possession, counsel for the appellant has argued that the report was not obtained for this purpose but because the appellant had to get the sale deed registered. Be that as it may, the fact remains that the report was prepared behind the back of the respondents and consequently the lower appellate court rightly ignored the same.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

March 08, 2018
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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No