

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

**RSA No. 2994 of 2019(O&M)**

**Date of decision: 24.9.2019**

Sarupi and others

.....Appellants

VERSUS

Baljeet and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. G.C. Shahpuri, Advocate for the appellants.

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**REKHA MITTAL, J. (Oral)**

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts below whereby suit for possession in respect of land measuring 3 marlas comprised in khasra No.128/2 situated at village Katarwali, Tehsil Bilaspur, District Yamunanagar was decreed by the trial Court vide judgment and decree dated 04.07.2016 and appeal preferred by unsuccessful defendants/appellants was dismissed by District Judge Yamunanagar at Jagadhari vide judgment and decree dated 14.12.2018.

Counsel for the appellants would argue that prior to the present litigation, the appellants filed a suit for injunction in respect of the suit land wherein they raised a specific plea with regard to their being in adverse possession of the land in question. It is further argued that in para 3 of the plaint (Annexure A-1), it was pleaded by the respondents/plaintiffs that after purchasing the land, they requested the defendants/appellants not to use the said land but predecessor in interest of the defendants in place of

vacating the same filed civil suit No.410 of 1997 for permanent injunction claiming himself to be owner of the said *bara* as well as khasra No.129//2.

It is vehemently argued that in view of the averments raised in para 3, it becomes undisputed factual position that predecessor in interest of appellants was in possession of suit land even prior to its purchase by the respondents/plaintiffs in the year 1987. It is further argued that respondents/plaintiffs filed an application before the Revenue Authorities for correction of khasra girdawari but they failed in their endeavour as appeal preferred by the appellants was accepted and the order has attained finality. It is further argued that since the appellants have acquired title to suit land on the basis of adverse possession, Courts have seriously erred by decreeing suit of the respondents for possession of the suit land. Another submission made by counsel is that suit for possession filed by the respondents/plaintiffs is barred by limitation in view of provisions of Article 65 of the Limitation Act, 1963.

I have heard counsel for the appellants, perused the paper-book particularly the judgments impugned and documents annexed.

The dispute with regard to ownership of respondents/plaintiffs of land in question was decided in the previous litigation between the parties and respondents/plaintiffs were left at liberty to recover possession of the suit land from the appellants in due course of law. Counsel for the appellants has failed to successfully assail concurrent findings of the Courts negating their plea that their possession has matured into title on the basis of being adverse/hostile. There cannot be dispute about settled position in law that wrong possession *ipso facto* would not mature into title by extinguishing title of the true owner unless it is established that

possession was open, hostile, continuous and uninterrupted. In this view of the matter, the appellants cannot derive any advantage to their contention from the factum that respondents/plaintiffs have admitted their possession over the suit land even prior to purchase made by them vide sale deed of 1987.

This brings the Court to question of limitation in filing the suit. A true owner can file a suit for recovery of possession without inviting the implications of law of limitation unless the person in possession is able to establish that he is in possession of the suit property for the past more than 12 years before institution of the suit and his possession has matured into title extinguishing title of the true owner. No sooner, the first contention of the appellants is rejected that they have become owner of the suit land on the basis of adverse possession, it is not open for them to contend that suit filed by the true owner is barred by limitation.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

**SEPTEMBER 24, 2019**

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

**(REKHA MITTAL)**

**JUDGE**

yes/no

yes/no