

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

**RSA-887 of 1996(O&M)  
Date of Order: 05.02.2019**

**Joginder Nath and others**

**..Appellants**

**Versus**

**M.C.,Panipat**

**..Respondent**

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

Present: Mr. Suryakant Gautam, Advocate, and  
Mr. Mohan Singla, Advocate,  
for the appellants.

Mr. C.B.Goel, Advocate,  
for the respondent-M.C, Panipat.

**ANIL KSHETARPAL, J (Oral)**

Plaintiffs-appellants are in the regular second appeal against the judgment passed by the learned first appellate court.

Plaintiff claiming to be in possession of a land situated in Patti Taraf Insar, filed a suit with the assertions that it was a low lying area and the plaintiffs have got it filled up and have been in continuous possession, therefore, perfected their title by way of adverse possession.

Defendant-Municipal Committee, contested the suit claiming that the plaintiffs are neither owner nor in possession of the property.

Learned trial court decreed the suit, however, first appellate court after finding that the plaintiffs during evidence has set up a new case to the effect that they have purchased this land from one Baleshwar Nath but failed to prove that Baleshwar Nath was a co-sharer in the Patti Shamilat Taraf Insar, reversed part of the judgment of the trial court.

This court has heard learned counsel for the parties on

25.01.2019 when counsel for the appellants sought adjournment on the ground that he wants to inspect the trial court record. Adjournment was granted. Once again the arguments have been heard.

Plaintiffs now wish to claim their title on the basis of a sale deed executed by Baleshwar Nath, however, title of Baleshwar Nath has not been proved. Still further, no evidence has been produced that Baleshwar Nath was one of the owner of Khewat Taraf Insar. It has been noticed that the learned first appellate court that the plaintiffs have failed to prove their title but has still granted decree for injunction. Such decree without permitting the Municipal Committee to dispossess the plaintiffs in accordance with law is clearly perverse.

Learned counsel for the appellants, at this stage, wishes to withdraw the appeal which cannot be permitted. The Municipal Committee, Panipat, shall be entitled to take possession in accordance with law.

In view thereof, this court does not find any good ground to interfere.

The regular second appeal is dismissed.

**February 05, 2019**  
**nt**

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

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No