

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

427

RSA No.3524 of 2004 (O&M)

Date of decision: 16.01.2019

Dev Raj

..... Appellant

Versus

Ram Asra

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. B.S. Bali, Advocate
for the appellant.

Mr. Rajiv Joshi, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

This is an application for permission to produce additional evidence. Through additional evidence, the defendant wishes to produce copy of the bank record, copy of identity card issued by Election Commission of India and copy of agreement allegedly executed by Smt. Mindo, widow of Ram Asra in favour of the defendant-appellant. Even if these documents are considered in evidence, the defendant has no chance of success which would clear from the discussion.

Defendant-appellant is in the regular second appeal against the judgment passed by the learned First Appellate Court.

Dispute in the present case is with respect to a plot situated in village Aujla, Tehsil Phillaur. The plaintiff-respondent filed a suit claiming the possession along with relief of permanent injunction. It was claimed by the plaintiff that he was allotted plot by the Block Development and

Panchayat Officer, Nurmahal as a landless labourer and thereafter, he is owner thereof. He pleaded that after the allotment, entries were made in the revenue record and he has been forcibly dispossessed with the help of Police by the defendant.

The defendant contested the suit and pleaded that the property was allotted to Ram Asra, son of Sahiya in the year 1974-75 and thereafter, he has sold the property in his favour.

Learned First Appellate Court after relying upon records of right (Jamabandies) for the years 1976-77, 1981-82, 1986-87, 1991-92 and 1996-97 apart from mutation Ex.P-9 in favour of the plaintiff-respondent, reversed the judgment of the trial Court and decreed the suit filed by the plaintiff.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below and the record.

The defendant-appellant claims right in the immovable property on the basis of a sale by Ram Asra or his widow Smt. Mindo. No sale deed has been produced on file. Through additional evidence, only an agreement to relinquish possession has been produced which records that Smt. Mindo had relinquished her rights in favour of Gurdev Ram. Learned counsel for the appellant submitted that Gurdev Ram is also known as Dev Raj, although, there is no record to that effect. In any case, the agreement to sell does not confer any title. Still further, ownership of Smt. Mindo or her husband-Ram Asra has not been proved. In absence of ownership of the vendor, no right vest with the defendant.

The records of right noticed above has presumption of truth

which has not been rebutted. The records of right may not be document of title but they are certainly evidence of title. Continuously for more than 20 years, the record proves that it is the plaintiff-respondent who is owner of the property.

In such circumstances, there is no ground to interfere.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

Appeal is dismissed.

16.01.2019
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No