

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

RSA No. 705 of 2010 (O&M)

Date of Decision: September 26, 2019

Rama Nand and others

.....Appellants

versus

Ram Kumar and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr. J.K. Sibal, Senior Advocate with
Mr. Sapan Dhir, Advocate,
for the appellants.

Mr. Sachit K. Sahijpal, Advocate
for the respondents.

SUDIP AHLUWALIA, J. (Oral)

At the outset, Ld. Counsel for the appellants draws attention of this Court to the order, vide which notice of motion was ordered to be issued on 30.08.2010 on the limited submission of the appellants that suit of the plaintiff-respondents for declaration of ownership to the suit property on the basis of the plea of adverse possession is not maintainable.

Ld. Counsel for the appellants today draws attention of the Court to the decision of the Hon'ble Supreme Court in 'Ravinder Kaur Grewal and others Vs. Manjit Kaur and others, Civil Appeal No. 7764 of 2014, pronounced on 07.08.2019, wherein it has been held as under:-

'60. When we consider the law of adverse possession as has developed vis-à-vis to property dedicated to public use, courts have been loath to confer the right by adverse possession. There are instances when such properties are encroached upon and then a plea

of adverse possession is raised. In Such cases, on the land reserved for public utility, it is desirable that rights should not accrue. The law of adverse possession may cause harsh consequences, hence, we are constrained to observe that it would be advisable that concerning such properties dedicated to public cause, it is made clear in the statute of limitation that no rights can accrue by adverse possession.

61. Resultantly, we hold that decisions of Gurudwara Sahab v. Gram Panchayat Village Sirthala (supra) and decision relying on it in State of Uttarakhand v. Mandir Shri Lakshmi Siddh Maharaj (supra) and Dharampal (dead) through LRs v. Punjab Wakf Board (supra) cannot be said to be laying down the law correctly, thus they are hereby overruled. We hold that plea of acquisition of title by adverse possession can be taken by plaintiff under Article 65 of the Limitation Act and there is no bar under the Limitation Act, 1963 to sue on aforesaid basis in case of infringement of any rights of a plaintiff.'

As a consequence, Ld. Counsel for the appellants submits in all fairness that as per the law laid down by the Apex Court in the aforesaid judgment the present appeal itself has been rendered infructuous since the very basis on which notice was ordered to be issued, has been cut at its roots.

In view of the aforesaid submission of law, as declared by the Hon'ble Supreme Court clearly no further merit remains in the present appeal and the same, therefore, stands dismissed.

September 26, 2019
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[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No