

RSA No.2738 of 2016 (O&M)

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

RSA No.2738 of 2016 (O&M)

Date of decision:10.05.2019

Rajbir Singh

... Appellant

Vs.

Bhagwan Kaur (since deceased) through LRs

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. APS Shergill, Advocate, for the appellant.

AMIT RAWAL J. (Oral)

The present regular second appeal is directed against the concurrent findings of fact and law whereby suit for possession has been decreed rejecting the defence of adverse possession.

The respondent-plaintiffs sought the possession of land measuring 1 kanal 12 marlas in a suit filed on 26.11.1999 alleging that about six months back, plaintiffs filed an application for demarcation of land wherein the defendants were found in un-authorized possession.

The defendants appeared and raised the objections qua maintainability, limitation and set up the plea of ownership by efflux of time/adverse possession. It was alleged that 01 kanal 12 marlas comprised in khasra nos. 19//13, 8, 18, 23, 28//3 had been in their possession since long and therefore, had become the owners as their possession on demise of successors-in-interest were adverse since 1989.

Since the parties were at variance, the trial Court framed as many as 09 (nine) issues including the issue of Relief. The plaintiffs in

support of the pleadings brought on record the revenue record and as well as the demarcation report whereas defendants placed on record the material which was not beyond 12 years but confined it to 10 years.

Mr. A.P.S.Shergill, learned counsel appearing on behalf of the appellants submitted that possession was more than 12 years from the predecessors-in-interest, though the defendants had stepped into shoes since 1989.

I am afraid the aforementioned argument is not sustainable as the plea of adverse possession tantamounts to admission of title, though the provisions of Article 65 and Section 27 of the Limitation Act statutorily provide remedy to a person to assert the extinguishment of right and claim ownership of right by efflux of time but the same has to be positive and direct evidence. Para 07 of the judgment rendered by the Hon'ble Supreme Court in **Gurudwara Sahib Vs. Gram Panchayast village Sirthala and another 2013(4) RCR (Civil) 703** has dealt with such situation which is conspicuously wanting in the present case. Thus, argument of Mr. Gill, has not been able to bring the case within the realm of illegality and perversity.

No ground for interference is made out.

Resultantly, the regular second appeal is dismissed.

May 10, 2019	(AMIT RAWAL)
savita	JUDGE
Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No