

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

RSA No.2132 of 2015 (O&M)

Date of decision : 26.03.2019

Rohtash and another

...Appellants

Versus

Balwan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None for the appellants.

Mr. Munish Kumar Garg, Advocate with
Mr. Paras Sharma, Advocate with
Ms. Bhawana Thakur, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Called thrice. However, counsel appearing on behalf of the appellants is not present. It has been noticed that since 31.05.2016, counsel for the appellants has not appeared consistently on six different dates of hearing. Hence, this Court is left with no choice but to read and decide.

Defendants-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below decreeing the suit filed by the plaintiffs-respondents for grant of decree of permanent injunction.

Plaintiff claims that he alongwith his mother, brother and sister are in joint possession of the property. Defendants claim that they have purchased the property through the agreement to sell dated 10.12.1987.

Both the Courts on examination of the evidence have found that the defendants have failed to prove either their ownership or their possession. The alleged agreement to sell is Mark D1 which is neither exhibited nor proved. Still further, it is unilateral declaration by the defendants. There cannot be any agreement to sell unless the plaintiffs who are owners are party to the document.

Hence, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below .

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

26.03.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No