

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

**RSA No.226 of 2015 (O&M)
Date of Decision:20.02.2019**

Ajit Singh and others

...Appellant(s)

Versus

Virsa Singh and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.K.B.Raheja, Advocate for the appellants.
Mr.Nakul Sharma, Advocate for the respondents.

ANIL KSHETARPAL, J.

Defendant-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the courts below, while decreeing the suit for permanent injunction filed by the plaintiffs, claiming decree for permanent injunction on the basis of title.

The defendants-appellants contested the suit and pleaded that it is the defendants who are in peaceful possession of the property on the basis of registered sale-deed dated 08.05.2008 allegedly purchased from Smt.Kashmir Kaur.

Both the courts on appreciation of evidence have found that Smt.Kashmir Kaur is missing since 1947 and the sale-deed is result of impersonation.

The only argument of learned counsel for the appellants is that in an injunction suit finding with regard to validity of the sale deed could not be recorded in absence of any issue.

No doubt the argument of learned counsel is attractive in first blush, however, on deeper scrutiny it does not have substance. It is the defendants who had taken a plea that they are in possession of the property on the basis of registered sale-deed. The defendants were granted opportunity and they failed to lead cogent evidence.

Both the courts have examined this aspect and recorded a concurrent finding. Now at this stage the defendants-appellants cannot claim that no finding could be recorded in an injunction suit. Once the parties were alive to the issue and have led evidence and ultimately findings had been arrived at on appreciation thereof, the defendants-appellants cannot be permitted to turn around and claim such finding is erroneous.

In view of the above, there is no ground to interfere. Hence, regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

20.02.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No