

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

RSA No.3288 of 2015 (O&M)
Date of Decision.20.02.2019

Ram Chander

...Appellant

Vs

Ramanand and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Kumar Yadav, Advocate
for the appellant.

:-

AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming simpliciter declaration to be exclusive owner of the suit property situated within the *abadi* of village Gadhi Ruthal comprising of Ahata No.128 House No.153 as detailed in the head note of the plaint and for injunction from forcible interference and dispossession on the ground that he had been in ownership and possession owing to the property being devolved from his successor in interest Gyana son of Gharsa, who was survived by Jalam. On demise of Jalam, Govind Ram succeeded to the interest and thereafter Sohan Lal, father of plaintiff.

Defendants denied the exclusive possession of the plaintiff and stated that he had nothing to do with Ahata No.128 as vide writing dated 4.7.2000, they had purchased the property in Ahata No.127 House No.152 measuring 8 marlas for a valuable consideration.

Mr. S.K. Yadav, learned counsel appearing on behalf of the appellant-plaintiff submitted that during the pendency of the

aforementioned suit, despite extensive evidence was led, local commissioner was appointed and as per his report, it was found that Ahata No.128 House No.153 was vacant and there was only a tin shed. This was enough for the Court to grant relief of possession as per provisions of Order 7 Rule 7 CPC.

I am afraid aforementioned argument is not sustainable, as suit for declaration and possession are totally based on different cause of action with different amount of court fees. On receipt of demarcation report, it was obligatory upon the plaintiff to withdraw the suit with prayer to file a fresh one. Having failed to do so, as both the defendants and plaintiff had not been able to establish the ownership of Ahata No.128, remedy lied in the manner and mode as indicated above.

In view of such circumstances, I do not subscribe to the arguments raised by the counsel for the appellant to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 20, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No