

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

**RSA No.4713 of 2016 (O&M)
Date of decision:14.02.2019**

Roop Chand and others

... Appellants

Vs.

Sumer Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Chanderhas Yadav, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.12177-C of 2016

For the reasons stated in the application which is duly supported by an affidavit, delay of 60 days in filing the appeal is condoned.

C.M. stands allowed.

C.M.No.12178-C of 2016

The application is allowed, subject to all just exceptions. Legal representatives of Ram Dass-appellant no.2 and Pyare Lal-appellant No.3 as mentioned in the application are ordered to be brought on record for the purpose of prosecuting the present appeal.

RSA No.4713 of 2016 (O&M)

The appellant-plaintiffs have not been successful in claiming the declaration by laying challenge to the two sale deeds dated 01.06.1987 and 26.07.1970 executed by Ram Kishan and Umrao in favour of defendants no.1 and 2 by filing the suit in the year 2006 with a

consequential relief of permanent injunction.

It was averred that the land belonged to Jeeta, maternal grandfather of Khubi, who had no son. The defendants denied the averments made in the plaint and claimed to be owners of the property and raised the objection of limitation as well.

The appellant-plaintiffs in support of their case examined five witnesses including plaintiff-Roop Chand as PW1 and did not place on record any material to establish the ownership of the land. On the other hand, defendants also examined 10 (ten) witnesses and did not place on record any documentary evidence.

Mr. Chanderhas Yadav, learned counsel appearing on behalf of the appellant-plaintiffs submitted that oral evidence of the plaintiffs and defendants, in fact, examined threshold and comparison of the witnesses of the plaintiffs have been consistent and coherent regarding the ownership of the suit land and adoption of Jeeta. It was within the *lal dora* and there is no entry in the revenue record. Ramji Lal, Hira Lal and Bhai Ram were not the owners of the suit property. There is no limitation when the title is at stake.

I am afraid the aforementioned arguments are not sustainable as the plaintiffs miserably failed to prove the categoric pleading in the plaint qua the land subject matter of the sale deeds of Jeeta and adoption. If Jeeta was in possession of the suit land, attenuating circumstances were required to be brought on record to establish the possession of the suit land allegedly subject matter of the sale deeds. No explanation has come forth in not challenging the sale deeds as both the properties situated in village Kheri

and the plaintiffs are also resident of village Kheri.

As an upshot of my findings, arguments of Mr. Yadav, are not able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 14, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No