

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

RSA No.228 of 2017 (O&M)

Date of Decision.03.05.2019

Bua Devi (since deceased) through LRs

...Appellant

Vs

Ajit Singh and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amit Arora, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.491-C of 2017

For the reasons stated in the application, delay of 104 days in re-filing of the appeal is condoned.

Application is allowed.

RSA No.228 of 2017 (O&M)

The appellant-plaintiff is in regular second appeal against the concurrent finding of fact whereby suit for possession of land measuring 7 kanals 4 marlas as per jamabandi for the year 1988-89 situated within the revenue estate of Village Dhota, Tehsil Khadoor Sahib, District Amritsar has been dismissed by the trial Court and affirmed in appeal.

The plaintiff alleged that he had left the village during terrorism and went to Faridabad and defendants obtained mutation in their own favour. There was no such exchange deed as allegedly reflected in the revenue record.

Defendants No.1 and 2 opposed the suit by raising preliminary objections. On merits, it was stated that plaintiff had in the year 1978 entered into oral exchange and defendants exchanged land measuring 2 kanals 15 marlas bearing No.414/1 and possession was also

taken by each other. Mutation was effected in 1987.

Defendants No.3 to 14 filed joint written statement and stated that they had purchased the land measuring 5 kanals 15 marlas i.e. 5 kanals 12 marlas out of khasra No.400(7-4) vide registered sale deed dated 7.9.1989 and 17.12.1987 respectively from the plaintiff for a valuable consideration and on the basis of the same, possession was also given.

Defendants No.14, 21 and 22 filed separate written statement and so did other defendants.

Both the parties led extensive evidence.

Mr. Amit Arora, learned counsel appearing on behalf of the appellant submitted that defendants have not been able to prove exchange deed as well as the sale deed. It is only on account of fact that land was left unoccupied, resulting into forcible occupation and therefore, possession was sought of 7 kanals 4 marlas.

I am afraid aforementioned argument is not sustainable, as part of the land was exchanged whereas remaining was sold by the plaintiff. There is no challenge to the same. The suit was filed in the year 2003 whereas the sale deeds were of 1987 and 1989. Filing of the suit was nothing but an act of aggrandizement.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered 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

May 03, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No