

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

RSA No.2376 of 2017 (O&M)
Date of Decision.23.05.2019

B.R. Shama and others

...Appellants

Vs

Kanta Rani and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Ekta Thakur, Advocate
for the appellants.

:-

AMIT RAWAL J. (ORAL)

Costs of ₹2500/- has been paid.

The appellants-plaintiffs has not been successful in claiming declaration by laying challenge to the sale deed dated 10.06.2004 executed by defendants No.2 and 3 in favour of defendant No.1 to be illegal, without any right, title and interest with permanent injunction from alienation and transfer in any manner 4 biswas of land as shown in the site plan and interfering into peaceful use and occupation and transferring possession on the premise that the plaintiffs had been in possession of the aforementioned suit property which was assigned No.109 but after establishment of Municipal Corporation was given 57 as new number. The aforementioned property is within the *abadi deh* of village Attawa, U.T., Chandigarh. Plaintiffs have let out a shop bearing No.57/2 and two rooms measuring 14'x10' to defendant No.4 and shop Nos.57/3 and 57/4 to defendant No.5 and a room measuring 10'x8' to defendant No.6. The remaining portion had been in actual and physical possession of the plaintiffs. Plaintiffs had been receiving rentals from

defendants No.4 to 6. Defendant No.1 asserted sale of the house/shop by showing copy of the sale deed. There is no jamabandi available with the alleged sale deed. Recital to the effect that one kanal area has been sold are also wrong as in village Attawa the land is measured by biswas and bighas, therefore, cause of action accrued to assail.

Defendants in the written statement stated that defendant No.4 had already delivered possession of shop No.57/2 and five rooms to defendant No.1 in the court of Rent Controller, Chandigarh. The alleged threat perception and visit at the spot was emphatically denied. It was alleged that defendant No.1 had purchased the entire 1 kanal from defendant No.2 and 3 comprising in Khewat No.39, Khatauni No.53/61, as per sale deed dated 10.06.2004 registered before the Registrar on payment of consideration of ₹7 lakhs. The location of the property and the *abadi deh* was not denied.

Plaintiffs in support of evidence brought on record Ex.P1 to P10 i.e. receipts, copies of bills, identify card issued by Election Commission of India and sale deed. On the other hand, defendants brought on record Ex.D1 to D8 i.e. jamabandies, copy of rent petition, statement of parties etc.

Ms. Ekta Thakur, learned counsel appearing on behalf of the appellants submitted that since property is situated in *abadi deh*, there was no document of title. All tenants had been paying rent. The aforementioned sale deed was without any right and title. In such circumstances, Courts below ought to have protected possession of plaintiffs.

I am afraid aforementioned arguments would not be sustainable, as plaintiffs have miserably failed to prove title and interest in the property except letting out. The water and electricity bills do not clothe a person with title. Possession of shop was already handed over, therefore, in such circumstances, injunction as sought for could not have been granted as the burden remained undischarged.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact and law rendered by 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 23, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No