

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2312 of 2018 (O&M)

Date of Decision: 25.03.2019

Imran and others

..... Appellants

Versus

Majid and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Amit Jain, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff-respondent filed a suit for permanent injunction restraining the defendants from interfering in the construction work being carried by him. It has come on record that father of the plaintiff had purchased the property in a public auction on 12.12.1966. Another plot was purchased by the father of the plaintiff in 1984. The defendants pleaded that they are in possession for more than 100 years and have constructed boundary wall. Both the Courts on appreciation of evidence have found that the defendants have failed to prove their plea of having become owner by way of adverse possession. The Courts have further found that there is no construction on the property and merely because some stones have been dumped would not make the defendants in possession of the property.

Learned counsel appearing for the appellants has submitted

that the Courts below have erred in decreeing the suit without recording a finding that the plaintiff is in possession of the property. He submitted that the suit is only for permanent injunction.

This Court has considered the submission. The claim of the plaintiff is based on title. There is no dispute with respect to the title of the plaintiff. The defence of the defendants is based upon having perfected their title by adverse possession which they have failed. The defendants have taken a plea that they have constructed a boundary wall in which they have failed to establish. Still further, merely on dumping of some stones or fire wood, the exclusive possession of the defendants is not established. Once the defendants have no right, title or interest, there is no ground to interfere.

Hence, the appeal is dismissed.

25.03.2019

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No