

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

**RSA No.2964 of 2017 (O&M)
Date of Decision.27.03.2019**

Ramesh

...Appellant

Vs

Om Parkash and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ram Pal Verma, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.7391-C of 2017

The application for making good the deficiency in the ad
valorem court fee is allowed and the appellant is permitted to make good
good the deficiency in court fee.

C.M. No.7392-C of 2017

For the reasons stated in the application, delay of 158 days in
re-filing of the appeal is condoned.

Application is allowed.

RSA No.2964 of 2017 (O&M)

The appellant-plaintiff has not been successful in a suit for
possession of land purported to have been allotted by Tehsildar (Sale) to
his predecessor vide allotment letter dated 4.6.1966 at a price of ₹88/-. It
was alleged that plaintiff's father was given physical possession and after
his death, he had been in possession and was using the same for tethering
cattle and domestic purpose. Since he was serving in Indian Army,
defendants took over and constructed a share shown by GBCH in the
map and therefore, cause of action accrued to seek aforementioned relief.

Defendants contested the suit and stated that they have

already constructed a house in 1976 and denied that any allotment was made to father of the plaintiff.

Plaintiff examined himself and two other witnesses and tendered documents Ex.P1 to P7 i.e. copy of order of allotment, receipt and site plan etc. On the other hand, defendants examined two witnesses and brought on record Ex.D1 to D3.

Learned counsel for the appellant submitted that the allotment letter unquestionably proved allotment of plot No.30 by the competent authority whereas defendants have not been able to establish their title over the suit property. The plea of adverse possession tantamounts to admitting title of other party, thus, the courts below ought to have decreed the suit.

I am afraid aforementioned argument is not sustainable, as the plaintiff failed to prove title by not summoning witness from the concerned Department and allotment & letter of possession. The boundaries given in the allotment letter did not tally with the factual position. In other words, finding of fact and law by non-suiting the plaintiff on the ground of having not discharged onus is perfectly legal and justified and cannot be said to be suffering from illegality and perversity.

No substantial question of law arises for determination by this Court, much less, no ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 27, 2019
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No