

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

RSA No.301 of 2018 (O&M)
Date of decision: 04.04.2019

Shingara Singh and others

... Appellants

Versus

Surinder Kumar (deceased) thr his LRs Etc.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Dinesh Sharma, Advocate for the applicant-appellants.

REKHA MITTAL, J. (Oral)

CM No.2210-C of 2019

Heard.

For the reasons contained in the application, same is allowed
and order dated 22.01.2019 is recalled.

The main appeal is taken on board today itself.

CM No.684-C of 2018

Heard.

Allowed as prayed for. Delay of 25 days in filing the appeal
stands condoned.

Main Case

Challenge in the present appeal has been directed against
concurrent findings recorded by the Courts whereby suit for possession of
property in the shape of incomplete house without roof, plaster, flooring etc
shown as ABCDEF in the site plan situated at courtyard of Malangwala,

Ward No.6, House No.B-111/125, Banur was dismissed by the trial Court vide judgment and decree dated 09.10.2014 and appeal preferred by the appellants/plaintiffs was dismissed by the Additional District Judge, Patiala on 21.09.2017.

Perusal of the judgments passed by the Courts makes it evident that the appellants have staked their claim qua ownership of the suit property on the basis of judgment and decree dated 30.10.1971 passed in suit titled 'Punjab Wakf Board, Ambala Vs. Chanan Singh' wherein Sh. Chanan Singh, predecessor in interest of the plaintiffs was declared to be owner of the property, subject matter of the suit on the basis of adverse possession.

Counsel for the appellants would argue that as the property in question marked as ABCDEF in the site plan is a part of courtyard of Takiya Shah Malangwala and the earlier litigation between the Punjab Wakf Board and Chanan Singh pertained to the property in the courtyard of Takiya Malangwala and Chanan Singh was declared to be owner of the said property in the suit filed by Punjab Wakf Board through whom defendants No.4 and 5 are claiming possession on the basis of lease deed, the Courts have committed a grave error rather illegality by rejecting claim of the appellants for possession of disputed property.

I have heard counsel for the appellants, perused the paper book and certified copy of judgment dated 30.10.1971 passed in the suit captioned 'Punjab Wakf Board, Ambala Vs. Chanan Singh'.

On plain but careful reading of judgment aforesaid would reveal that Punjab Wakf Board filed suit for possession of vacant land and Takiya Malangwala situated at Chandigarh road at Banur after demolishing unauthorized construction and removing the malba etc. of House No.125 Block III, Ward No.6, Banur constructed in the courtyard of the Takiya and bounded by courtyard of Takiya Malangwala on all the four sides namely north, south, east and west. In the said suit, House No.125, Block–III was the subject matter of litigation between the Wakf Board and Chanan Singh in regard whereof said Chanan Singh was declared to be owner on the basis of findings on issue No.3 pertaining to ownership on the basis of adverse possession. However, counsel for the appellants has failed to point out any materials on record to prove that the said suit also included the disputed property marked as ABCDEF in the site plan, relied upon by the appellants. It is also not the plea of appellants that the suit property is a part of property which was under House No.125, Block III, subject matter of the earlier litigation. The mere fact that in the earlier suit, property comprising Takiya Malangwala was the subject matter of dispute is not sufficient to accept plea of the appellants that either Chanan Singh or his successors in interest have become owner of the entire property comprising Takiya Malangwala more particularly in the circumstances that in the earlier suit courtyard of Takiya Malangwala has been shown in all the four directions of the property in question i.e. House No.125, Block III, Ward No.6. As in the earlier suit, the area of the disputed property is not mentioned and the

dispute pertained to only in regard to House No.125 which admittedly is in possession of the appellants, the appellants cannot derive any advantage to their contention to claim possession of the suit property on the basis of judgment and decree dated 30.10.1971 passed in the aforesaid suit. Since the appellants have failed to prove their ownership of the disputed site or to connect the same with the property subject matter of the earlier litigation, I do not find an error much less illegality in the consistent findings recorded by the Courts.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

04.04.2019
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No