

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

RSA No.3505 of 2018 (O&M)

Date of decision : 06.03.2019

Ralla Singh

...Appellant

Versus

Balas Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: None.

ANIL KSHETARPAL, J.

Plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below dismissing the suit filed by him for declaration that he is owner in exclusive possession of land measuring 3 marlas comprised in Killa No.399 on the basis of the writing of transfer dated 02.07.1990.

Plaintiff had also challenged the correctness of a registered sale deed executed by defendant Nos.6 to 9 in favour of defendant Nos.1 to 3. Plaintiff has claimed that pursuant to the aforesaid writing of transfer dated 02.07.1990, sons of the plaintiff also got constructed two toilets with the Government help.

Defendants contested the suit by pleading that defendant Nos.1 to 3 have purchased the property from defendant Nos.6 to 9. It has further been pleaded that application for demarcation of the property was filed and

demarcation was carried out on 24.03.2012 and defendant Nos.1 to 5 were found to be in possession of the property.

On appreciation of the evidence, both the Courts have dismissed the suit. Learned First Appellate Court has found that as per the revenue record, defendant Nos.4 to 6 are recorded owners and name of the plaintiff is nowhere recorded in the ownership column. Ex.P2, the alleged writing dated 02.07.1990 does not refer to any khasra number. Still further, jamabandi for the year 2008-09 records that Gurtej Singh, Baltej Singh, Mithu Singh and Tej Kaur are owners to the extent of 1/4th share each. Plaintiff claims to have become owner on the basis of a writing from Gurtej Singh and Mithu Singh. However, Gurtej Singh and Mithu Singh were not owners of 3 marlas of the property and they were owners only to half share.

As regards plea of the plaintiff that toilets have been got constructed, both the Courts have held that the construction of toilets in the plot in dispute is not proved.

Both the Courts on appreciation of evidence, have recorded finding of fact which has not been shown to be either result of misreading of evidence or non-reading of the evidence. In the grounds of appeal, counsel has proposed following substantial questions of law:-

- “i) Whether the judgment and decree passed by the Courts below are sustainable in the eyes of law?*
- ii) Whether the courts below have misread the evidence brought on the file?*
- iii) Whether the judgment and decree passed by the courts below on the shaky evidence are tenable in the eyes of law?”*

A reading of the questions of law, it is apparent that none of the question of law are substantial questions of law. In any case, in the grounds of appeal, it has not been disclosed as to how the judgments passed by the Courts below are not sustainable. Still further, it has not been pointed out that where the Courts have misread the evidence. As regards the last question, in the grounds of appeal, it has not been pointed out as to how the judgments are based upon shaky evidence.

In view thereof, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

06.03.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No