

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

**RSA No.4489 of 2017 (O&M)
Date of Decision.03.05.2019**

Parwinder Kaur

...Appellant

Vs

Ramji Dass and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikram Anand, Advocate
for the appellant.

-:-

AMIT RAWAL J. (ORAL)

C.M. No.11697-C of 2017

For the reasons stated in the application, delay of 243 days in re-filing of the appeal is condoned.

Application is allowed.

RSA No.4489 of 2017

The present regular second appeal is directed against the concurrent finding of fact whereby suit claiming declaration of ownership of the suit property on the basis of sale deed 31.10.1980 qua half share purchased from Darshan Singh, defendant No.3 and half share purchased from Balwant Singh vide sale deed dated 19.08.1983, has been dismissed by the trial Court and affirmed in appeal by the lower Appellate Court.

It was alleged that original suit property was purchased by defendant No.1, Ramji Dass and defendant No.2 Sudarshan Sharma jointly from Ramesh Kumar and others vide sale deed dated 18.04.1973 and further sold the same to defendant No.3 Darshan Singh vide sale deed dated 29.04.1976 and thereafter, defendant No.3

sold to plaintiff and her husband Balwant Singh. She is in possession of the suit property with electric connection and has been collecting rent from PUNSUP Department. Tehsildar cancelled the mutation in favour of defendant No.3 and got subsequent mutation of plaintiff cancelled, thus, defendant No.1 remained owner of the suit property in revenue record. Wrong entry in the revenue record created a shadow on the right of the plaintiff.

Defendants opposed the suit and raised various preliminary objections. On merits, it was denied that plaintiff was owner of the property and in exclusive possession of the same.

Defendants No.1 and 3 proceeded ex parte when they did not appear.

Plaintiff examined four witnesses whereas the only contesting defendant No.2 did not lead any evidence.

Learned counsel for the appellant submitted that in the absence of specific denial in the written statement, the Courts below ought to have decreed the suit, as the jamabandi reflected the ownership of plaintiff and sale deeds have also been proved. Only ground for non-suited the plaintiff was that she failed to prove that Ramesh Kumar, the erstwhile owner vide sale deed dated 18.04.1973 sold the property to defendants No.1 and 2.

I am afraid aforementioned argument is not sustainable, as concededly in the subsequent jamabandi mutation in favour of defendant No.3 was cancelled and consequently, in favour of plaintiff, as plaintiff purchased the suit property from defendant No.3.

No effort was made to correct the same. Merely having a registered

document, which is not corroborated by the revenue record, cannot accord declaration as sought for. Other evidence regarding title of Ramesh Kumar also remained in dispute.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the 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 03, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No