

RSA No. 6170 of 2018 (O&M)

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

**RSA No. 6170 of 2018 (O&M)
Date of decision: 16.11.2019**

Gurmeet Kaur

... Appellant

Versus

Chuhar Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Ashish Gupta, Advocate,
for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiff was dismissed by the trial court, vide judgment and decree dated 15.10.2016 and as even the appeal preferred against the said decree failed and was dismissed on 4.7.2018, she is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for injunction restraining the defendants from interfering in her possession over plot measuring 605 square yards, comprised in specific numbers, as depicted in the cause title of the plaint, situated in village Mundian Kalan, Tehsil and District Ludhiana, and from raising any construction thereupon.

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In brief, the case set out by her was that she was the owner in possession of the suit property, which she had purchased from Chuhar Singh (defendant No.1), vide sale deed dated 23.05.1997, executed by his attorney Chanan Singh. Even though the defendants were strangers to the suit property, yet they intended to dispossess the plaintiff. Thus the suit.

In the written statement filed by defendants No.1 and 2, it was denied if the plaintiff had purchased the suit property from Chuhar Singh for a valuable consideration. Chuhar Singh had appointed Chanan Singh son of Kehar Singh as his attorney, but without seeking consent of Chuhar Singh, he executed the sale deed dated 23.5.1997 and did not pass the sale consideration to Chuhar Singh. It was disputed if the plaintiff was in possession of the suit property. Thus, the suit was liable to be dismissed.

Upon consideration of the matter in issue and evidence on record, both the courts concurrently concluded that onus was upon the plaintiff to prove that she was the owner in possession of the suit property. And, to prove her claim, she examined Pritpal Singh (PW2), but the said witness did not present himself for cross-examination, despite availing repeated opportunities. Thus, his examination-in-chief could not be read in evidence. Likewise, plaintiff did not choose to appear for cross-examination, and thus, her stand in examination-in-chief was inconsequential. Concededly, she led no other evidence. Thus, only and the inevitable conclusion that could be reached: suit was liable to be dismissed for lack of evidence.

Upon being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at were either contrary to the record or suffered from any material illegality. No

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ground is made out to interfere with the concurrent findings recorded by both the courts. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

November 16, 2019
AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	YES/NO