

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

**RSA No.788 of 2018 (O&M)
Date of Decision : 19.11.2019**

Mahesh Kumar and another

.....Appellants

Versus

Naresh Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Parveen Kumar Garg, Advocate for the appellants.

ARUN PALLI, J. (Oral)

Suit filed by the appellants-plaintiffs was dismissed by the trial Court vide judgment and decree dated 11.01.2016 and as even the appeal preferred against the said decree failed and was dismissed on 28.08.2017, they are before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiffs prayed for injunction restraining defendant from interfering and dispossessing them from the suit property that is a house situated in Abadi Dashmesh Nagar, Sunam.

In brief, the case set out by them was that they had purchased a piece of land about 15 years ago and the mutation was sanctioned in their favour. They built a residential house upon the said site. However, the defendant who had no right, title or interest in the suit property was causing interference in their peaceful possession, thus the suit.

In the written statement filed by the defendant, it was pleaded *inter alia*, that neither did the plaintiffs mention the khasra number, the suit property was comprised in nor the details of any sale deed were mentioned showing the actual position of the site at the spot. In fact, towards the southern side of the house of plaintiffs, 11 feet wide street exists which had unlawfully been reflected as part of their property in the site plan. Further, adjoining the said street towards the southern side there exists a plot in the name of his wife, which was purchased from Pritpal Kaur wife of Jagdev Singh vide registered sale deed dated 23.05.2013, thus the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that case set out by the plaintiffs was that they had purchased a piece of land about 15 years ago and had constructed a house. However, to prove that plaintiffs were owners in possession of the house in question, they failed to lead any cogent evidence. Plaintiff-Mahesh Kumar (PW1) appeared as his own witness but he too could not substantiate his plea as regards title and possession. Likewise, merely on the basis of statement of Raj Kumar (PW3) and the site plan produced on record, claim of the plaintiffs could not be accepted. Even otherwise, Major Singh Draftsman (PW2) conceded in his cross-examination that he had not seen any registered deed or revenue record pertaining to the house in question. Although, plaintiffs produced a copy of the jamabandi for the year 2009-10 Ex.PC as regards property comprised in khasra No.958/5, but nothing was brought on record to

connect the said property with the house in dispute. Likewise, plaintiffs even failed to place on record any demarcation report to connect the said khasra numbers with the suit property. So much so, even in the plaint, the description of khasra numbers of the suit property as to where it was situated, were not mentioned. Thus, once the plaintiffs failed to prove their possession over the house as depicted in the head note of the plaint, the only and the inevitable conclusion that could be reached: the suit was liable to be dismissed.

On being pointedly asked, learned counsel for the appellants 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 ground is made out to interfere with the concurrent findings recorded by both the Courts below. The appeal being devoid of merit is accordingly dismissed.

19.11.2019

*Manoj Bhutani***(ARUN PALLI)**
JUDGEWhether speaking/reasoned
Whether reportableYes/No
Yes/No