

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

RSA-16-2017 (O&M)

Date of decision : 13.02.2020

Pat Ram

...Appellant

Versus

Umar Mohammad

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhimanyu Kalsy, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant has filed the present Regular Second Appeal against the judgment passed by the learned First Appellate Court. The plaintiff had filed the suit with following prayer:-

“A decree for possession in respect to the suit land detailed in para no.1 of the plaint as fully shown in the site plan and demarcation report dated 09.03.2012 directing the defendant to remove his illegal and unauthorized encroachment from the suit land and to hand over vacant possession of the same to the plaintiff and to put the plaintiff in actual physical possession of the same at his own costs alongwith the decree for permanent injunction as consequential relief, restraining the defendant from raising any construction over the suit land detailed in para no.1 of the plaint in any manner.”

The plaintiff claimed that he is owner of *gair mumkin* manure pit comprised in Khewat/Khatauni No.1011/1319, Khasra No.1239 (0-01), measuring 1 marla which was originally allotted to Jai Ram at the time of consolidation who in turn sold the property to the plaintiff about 20-25 years back. The plaintiff pleaded that in January, 2012, the defendant has illegally encroached thereupon.

The defendant contested the suit and pleaded that Jai Ram never sold the property to the plaintiff, rather, it was purchased by his father 40-45 years ago for a sum of ₹90/- orally.

Learned trial Court, decreed the suit. However, learned First Appellate Court, on re-appreciation of evidence, found that the plaintiff has failed to prove his title over the property. It is a case of the plaintiff that he has purchased the immovable property. However, a bare look at the copy of jamabandi, it is established that Jai Ram was in possession of the property as *gair marusi*, owned by *shamlat deh*. Still further, the sale by Jai Ram in favour of the plaintiff has not been proved. The plaintiff relies upon a writing Ex.P2 to prove that Jai Ram had sold the property for a sum of ₹5000/-. In absence of registered deed of transfer, the property worth more than ₹100/- cannot be transferred through an unregistered document in view of Section 17 of the Registration Act. The plaintiff seeks possession. The plaintiff has to stand on his own legs. In absence of document proving superior right, the suit filed by the plaintiff was correctly been dismissed.

Learned counsel for the appellant very fairly admitted that in absence of registered sale deed, no title passes in favour of the plaintiff-appellant.

In view thereof, there is no ground to interfere.

Accordingly, the present Regular Second Appeal is dismissed.

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

13.02.2020

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No