

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

RSA-1697-2018 (O&M)

Date of Decision: 09.01.2020

Som Nath & Ors.

...Appellants

Versus

Krishan Lal & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjeev Manrai, Sr. Advocate with
Mr. Piyush Garg, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendant no. 3 and 4-appellants are in regular second appeal against finding of fact arrived at by the first Appellate Court.

Brief facts of the case are that plaintiff- respondent no. 1 filed a suit for permanent injunction claiming possessory title over one Marla land which was allotted for *garha khad* (manure pit) to Mangat @ Mangtu @ Bhagtu Son of Hirda Son of Narata. It is the case of the plaintiff that the aforesaid Mangat died issueless and therefore the property was inherited to Smt. Shyamo Devi, who in turn delivered the possession to the plaintiff through a writing dated 06.08.2004. Defendant no. 3 and 4- appellants contested the suit while pleading that they are in actual physical possession of the property since the time of death of their father Mangtu Ram. Learned trial Court proceeded to decide the question of title and dismissed the suit.

Learned first appellate Court on re-appreciation of evidence found that the case of the plaintiff is based upon possessory right over very small

piece of land i.e. one marla situated in a village, allotted for a manure pit. The

Court found that the defendants-appellants have produced no evidence to prove that they are sons of the original allottee Mangat @ Mangtu @ Bhagtu. First appellate Court also noticed that Sanjiv Kumar S/o Smt. Shyamo Devi has appeared in evidence and deposed that the possession of the property was handed over to the plaintiff pursuant to the aforesaid right.

Keeping in view the aforesaid fact, the first appellate Court chose to grant only a decree of injunction in favour of the plaintiff.

This Court has heard learned senior counsel at length and with his able assistance, gone through the paper book. Learned senior counsel appearing for the appellants admitted that the appellants have not produced any evidence to prove that the property in dispute was allotted to their father. On a pointed question, learned senior counsel admitted that the defendants, apart from oral statements, have not produced any evidence to prove their possession over the property. He, however, submitted that relationship between Smt. Shyamo Devi and the allottee i.e. Mangat Ram is not proved. He, hence, submit that factum of delivery of possession to the plaintiff by Smt. Shyamo Devi is doubtful.

This Court has considered the submission, however, find no substance therein. As noticed above Sanjiv Kumar Son of Smt. Shyamo Devi has appeared in evidence as PW-4 and has stated that Smt. Shyamo Devi was related to the original allottee who was died issueless. Defendants have not produced any evidence to prove that Smt. Shyamo Devi was not related to the original allottee. Plea of the defendants that the property in dispute was allotted to their father is also not proved.

Learned first appellate Court on appreciation of evidence has recorded a finding of fact which is not shown to be suffering from any

Substantive error.

In view thereof, there is no ground to interfere in the findings of the Court below.

Dismissed.

January 09, 2020
Mehak Huria

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No