

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-323 of 2018 (O&M)

Date of decision: 02.03.2020

Ram Saroop

... Appellant

versus

Tarloki Nath & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Talwinder Singh, Advocate,
for the appellant.

ARUN MONGA, J.

1. Having been non-suited by the trial Court as well as first Appellate Court below, one of the plaintiffs has approached this Court by filing the instant regular second appeal questioning the legality and propriety of judgments dated 27.11.2014 and 31.03.2017 respectively.

2. Plaintiffs(appellant herein and others) filed a suit for declaration that they are owners in possession of the plot measuring 1 *kanal* 07 *marlas* marked as ABCDE and fully detailed in the head note of the plaint. It was claimed that their predecessor came to be owner in possession of the plot in dispute by virtue of judgment dated 16.06.1936 and the Tarlok Nath defendant who has no right or title therein wants to dispossess the plaintiffs therefrom. It was prayed that defendant be restrained from dispossessing the plaintiffs and to raise any sort of construction thereon.

3. The defendant refuted the claim of the plaintiffs. It is the stand of the defendant that the plot in dispute is his ancestral property and he is in possession thereof since the times of his forefathers and has raised

constructions thereupon and plaintiffs have no concern with the same.

3. On the basis of oral as well as documentary evidence led by the parties, the trial Court dismissed the suit. The appeal filed by the plaintiff also met with the same fate, leading to the filing of instant regular second appeal.

4. I have heard learned counsel for the appellant and have gone through the paper-book carefully. I am of the considered view that no interference is warranted.

5. Learned counsel for the appellant strenuously canvassed that since defendant did not step into witness box to controvert the assertions of the plaintiffs qua the suit property, therefore, both the Courts below erred in non-suiting the plaintiffs. The said argument is completely devoid of merits. It is settled law that plaintiff has no stand on his own legs and cannot derive any benefit from the weakness of the case of defendants. It is apparent that plaintiffs failed to produce any revenue record to prove that they are owners in possession of the suit plot. The plaintiffs even failed to establish the identity of the property in dispute. The onus of proving the title to the suit property in entirety was on the plaintiffs and having miserably failed to prove their case, both the Courts below rightly non-suited the plaintiffs.

6. The trial Court as well as First Appellate court has rightly returned adverse findings against the plaintiffs. There seems no perversity or illegality in the concurrent findings of facts returned by the Courts below by appreciation of evidence. No interference is thus called for to disturb the concurrent findings of facts recorded by the Courts below.

7. Furthermore, neither any question of law much less substantial question of law, which is *sine qua non* for entertaining second appeal before

this Court is involved in present appeal, so as to exercise appellate jurisdiction under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

8. In view of my discussion above and the reasons recorded therein, this appeal is dismissed being bereft of any merit. Resultantly, both the impugned judgments and decrees passed by learned Courts below are upheld.

9. Pending applications stand disposed of.

10. No order as to costs.

(ARUN MONGA)
JUDGE

March 02, 2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No