

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

121

RSA-90-2021 (O&M)
Date of decision: 01.03.2021

KAKA SINGH AND ANOTHER

...Appellants

Versus

BALBIR SINGH AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Amit K. Walia, Advocate for the appellants.

ANIL KSHETARPAL, J. (Oral)

The defendants-appellants are in a regular second appeal against the concurrent findings of fact arrived at by the Courts below while decreeing the suit for possession of gair mumkin property measuring 0 kanal 9 marlas bearing khewat No.149/144, khatauni No.343 and khasra No.121//40/2 (0-9) situated in village Sangtiwala, Tehsil Lehra as per the jamabandi for the year 2011-12.

The plaintiff-respondent No.1 filed a suit for possession claiming ownership of 8/9th share of the suit property whereas defendant No.3, proforma defendant to be owner of 1/9th share. It is pleaded that the plaintiff while apprehending forcible dispossession, filed a suit, however, defendant No.2 took over the possession on 25.01.2015. Therefore, the suit for injunction was withdrawn on 21.12.2015.

Defendant No.1 and 2 contested the suit claiming to be in peaceful possession of the property for last 20-25 years. They also claim that the electricity connection has been installed in their favour since 1993. However, the trial Court after appreciating the evidence decreed the suit. In appeal, the learned First Appellate Court on re-appreciating the evidence found that the defendants have no right, title or interest in the property. The learned First Appellate Court while discussing the statement of Jagdish Kumar, Kanungo who appeared as DW3 found that he has admitted that the property has been in illegal possession of defendant No.1 and 2. He further stated that some of the construction was raised one or two years back. The

Court after finding that the defendants are in an unauthorised possession, decreed the suit.

This Court has heard learned counsel for the appellants at length and with his able assistance perused the paper book.

He submits that the plaintiff-respondent No.1 while filing the suit did not annex any layout plan so as to identify the property particularly when it is in the shape of a constructed house. He, hence, submitted that the plaintiff-respondent No.1 has failed to give proper description of the property.

This Court has considered the submissions, as noticed above, the plaintiff while filing the suit identified the property through khewat, khatoni, rectangle, killa number. In the present case, the plaintiff has given complete description of the property with reference to khewat, khatoni, rectangle and killa number as per the jamabandi for the year 2011-12. Still further, Jagdish Kumar, Kanungo, a senior revenue official appeared as a defendant witness and admitted the illegal possession of the property by the defendants-appellants. He did not state that the property in dispute has not been properly identified.

In view thereof, no ground to interfere in the judgments of the Courts below is made out.

Dismissed.

01.03.2021

ashok

Whether speaking/reasoned:

Whether reportable:

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No