

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

RSA-1050-2021 (O&M)

Date of decision: 01.11.2021

Surjit Singh (since deceased) through his L.Rs and others

....Appellants

Versus

Mukhtiar Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S.Salar, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Through this Regular Second Appeal the defendants assail the correctness of concurrent findings of fact arrived at by the courts below. The respondents-plaintiffs filed a suit for grant of decree of possession alleging that the defendants have illegally encroached upon land measuring 2 kanals and 2 marlas. In the first instance, the trial court dismissed the suit, however, the First Appellate Court remitted the matter back to the trial court.

The plaintiffs filed the suit after getting the land demarcated on 29.10.2009. Before filing the suit, there were proceedings before the Director, Conciliation and other officers of the Consolidation Department. The consolidation authorities after finding an error changed the dimensions of the various killa numbers. The plaintiffs

claimed possession on the basis of title. The defendants while contesting the suit have asserted that they have perfected the title over the said land measuring 2 marlas due to continuous and uninterrupted possession. During the pendency of the suit, learned trial court directed the revenue officials to demarcate the area once again. The revenue officials after noticing that the building of Ranbir College existed before the consolidation of holdings carried out the demarcation. He found out that the defendants have encroached upon land measuring 2 kanals and 2 marlas. Both the courts on appreciation of evidence have found out that the plaintiffs have successfully proved their case.

Learned counsel representing the appellants contends that the revenue officials did not follow the procedure prescribed to demarcate the land. He contends that the revenue officials were required to first of all determine 3 permanent points.

A perusal of the demarcation report shows that the entire area is constructed and a lot of buildings exist. It is not in dispute that the building of Ranbir College existed much before the consolidation of the holdings. Thus, there is an old building which can be made a basis to start the demarcation. Furthermore, the defendants inspite of a notice did not come to attend the demarcation proceedings. The disputed property has already been demarcated on two different occasions. Moreover, defendants have not led any evidence to prove that the demarcation carried out on the directions of the court suffers from any grave error.

Keeping in view the aforesaid facts, no ground to interfere with the concurrent finding of fact is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

01.11.2021

rekha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE