

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

RSA-892-2022
Decided on : 19.07.2022

Surinder Singh

..... Appellant

Versus

Surinder Singh

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Dinesh Nagar, Advocate
 for the appellant.

Manjari Nehru Kaul, J.(Oral)

Suit for possession filed by the appellant-defendant was dismissed by the trial Court vide judgment and decree dated 23.10.2019. The appeal preferred against the aforesaid judgment and decree met the same fate before the learned Appellate Court and was dismissed. The appellant being aggrieved by the concurrent findings recorded by the Courts below is, now in Regular Second Appeal before this Court. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Since the plaintiff is an NRI, he authorized his nephew Avtar Singh and appointed him as his attorney to pursue the litigation in question on his behalf. As per the pleaded case, the plaintiff was owner of the suit property constructed in land comprised in Khasra No.70//13 as detailed in the headnote of the plaint. The suit property in question was purchased by Naranjan Kaur, mother of the plaintiff, vide sale deed executed on 01.05.1957. At the time of purchase, the khasra number was No.5765/1128

measuring 7 marlas, but after consolidation, khasra No.70//13 measuring 5 marlas was formed and the front portion of the property merged with the main road on the northern side. It was claimed that the defendant was inducted as a tenant in the shop in question 32 years prior to the filing of the suit on a monthly rent of Rs.500/- per month on the basis of oral tenancy. During her life time, Naranjan Kaur -mother of the plaintiff continued receiving rent from the shop. The shop in dispute though was got repaired and renovated by the defendant, however, all the expenses were borne by the mother of the plaintiff. After the demise of his mother, Naranjan Kaur in July 1994, the plaintiff inherited the suit property. The defendant allegedly stopped paying rent with respect to the shop in question to him after the demise of Naranjan Kaur and instead started asserting right of ownership over the same. He also refused to hand over the vacant possession of the suit property, as a result of which, the suit in question was filed.

In the written statement, the defendant controverted that the plaintiff was owner of the shop in question and claimed that he was owner in possession of the shop, having inherited the same from his forefathers. The execution of any sale deed qua the suit property in favour of Naranjan Kaur was categorically denied and it was submitted that in the records of Municipal Council, Banga the defendant stood recorded as owner. The defendant claimed that his father was running his business of carpentry in the shop in question and thereafter, the defendant has been running his Dhaba and STD booth since the year 1967. It was also claimed that even otherwise, the defendant had now become owner of the shop in question by

way of adverse possession. A suit for permanent injunction had been filed by the defendant against the plaintiff, which was pending adjudication before the Civil Court.

Upon consideration of the material on record and the evidence led, both the Courts below held that the factum of the plaintiff being owner in possession of the suit property after inheriting it from his mother Naranjan Kaur found due support and corroboration from the jamabandi Ex.P-4 wherein the plaintiff stood recorded as exclusive owner of khasra No.70//13.

The Courts below discarded the submissions of the defendant qua his ownership over the suit property by rightly holding that documents like tax payment receipt, electricity bills, assessment register etc. would, if at all, only prove his possession over the suit property and not his ownership as they were not documents of title. Qua his alternative plea of adverse possession, the Courts below rightly did not find any merit as it was the defendant's own admitted case that he learnt about ownership of the suit property only in the year 2015. The Courts thus, held that the status of the defendant was nothing more than that of a licensee/tenant.

Learned counsel for the appellant while arguing reiterated his submissions made in the written statement and the stand taken before the Courts below. He urged that the Courts below had erred in failing to appreciate that there was enough documentary evidence led in the form of tax payment receipts, electricity bills etc., from which the ownership of the defendant over the suit property stood proved, however, the ownership of the plaintiff over the suit property on the basis of

revenue records was erroneously considered by the Courts below.

Heard learned counsel and perused the relevant material available on record.

On a perusal of the material on record, this Court does not find any error in the findings recorded by the Courts below. The defendant miserably failed to place on record any document of title in his or in favour of his forefathers. The Courts below rightly rejected the plea of adverse possession taken by the defendant against the plaintiff as it was his own admitted case that he learnt about the ownership of the suit property in the year 2015.

On being pointedly asked, learned counsel for the plaintiff failed to bring to the notice of this Court anything on record to show that the conclusions arrived at by the Courts below were either contrary to record or suffered from any material illegality.

In the circumstances, this Court does not find any error in the judgments and decree passed by the Courts below, which would warrant any interference. Accordingly, the appeal stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

19.07.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No