

RSA No.503 of 1998 (O&M)

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

RSA No.503 of 1998 (O&M)
Date of decision : 12.12.2022

JAGDISH

.... APPELLANT

VS

HARI RAM AND ORS.

.... RESPONDENTS

CORAM : HON'BLE MR.JUSTICE ALOK JAIN

Present :- Mr. Ramesh Hooda, Advocate for the appellant.

Mr. Kulvir Narwal, Advocate with
 Mr. Satish Kumar, Advocate for respondents No.3 to 8.

ALOK JAIN, J. (Oral)

The present Regular Second Appeal arises out of judgment and decree dated 06.04.1995, whereby suit for permanent injunction filed by ***Hari Ram Vs. Jagdish and others*** was dismissed in favour of defendants No.3 to 9 namely Badamo, Kanwal Singh, Chander, Saria, Tinno and Kale minor son of Hoshiar Singh.

Interestingly, defendant No.1 filed an appeal despite the fact that the suit of the plaintiff had been dismissed and there was no appeal by the original plaintiff-Hari Singh. The appeal came to be dismissed and a concurrent finding was recorded with regard to the status of respondents/defendants No.3 to 9 in the original suit. The said appeal was also came to be dismissed on 18.11.1997.

Learned counsel for the appellant has vehemently argued that the Court below has dislodged the claim by recording that the orders passed by the Custodian Department were not binding on Civil Court.

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Per contra, the learned counsel for the respondents has submitted that, in fact, it was a Custodian Department which had sold the said land to one Shannu Lal @ Shanu Ram Ex.DW5/A and defendants No.3 to 9 purchased the said land. He further submitted that the Shannu Ram was the predecessor-in-interest of the said property and therefore, the Court below has rightly dismissed the suit in favour of defendants No.3 to 9.

Learned counsel for the appellant herein, who was the defendant No.1 in the suit has failed to demonstrate as to how the said appeal was maintainable at his instance much less the second appeal. On the specific query put by the Court, the learned counsel was unable to update as to whether any separate independent proceedings were initiated by the appellant to protect his alleged possession. There was no response to the said query, and hence, it can be safely presumed that the appellant, who was a defendant No.1, never initiated any proceedings to assail his claim and to stand on his own legs. He further submitted that the said objection was not raised by the co-defendant in the appeal.

In the light of the above facts that there are concurrent finding by the Court below, which have not been displaced by the appellant, no ground of interference is called for, accordingly, the present appeal is dismissed.

(ALOK JAIN)
JUDGE

12.12.2022

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Whether speaking/reasoned Yes/No

Whether Reportable Yes/No