

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

CR-2510 of 2022 (O&M)

Date of decision: 06.07.2022

Rajbir

...Petitioner

Versus

Ashok Kumar and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. S.P. Chahar, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Petitioner Rajbir, is plaintiff in a suit for declaration and possession filed against defendant Ashok Kumar and others, which suit the defendants are contesting statedly raising plea that they have been in continuous uninterrupted possession of the suit land for more than 12 years and their such possession has ripened into ownership. Initially issues were struck by the trial Court, vide order dated 15.02.2017. Thereafter the defendants came up with an application for framing of an additional issue with regard to plea of adverse possession having been taken up by them. Though that application was contested by the plaintiff vehemently but it was allowed by the trial Court, and an additional issue No.8 was struck as follows:-

“Whether the defendants are in physical continuous possession of the suit land since 15.03.1997 without paying any rent to the owner and their possession has become adverse and the defendants have become owners of the suit

property by way of adverse possession? OPD.”

Framing of this issue left the plaintiff aggrieved, and he has filed the present revision petition.

I have heard learned counsel for the revisionist/plaintiff besides going through the record.

Undisputedly, the defendants had raised a plea in the written statement with regard to they being in physical continuous possession of the suit land since 15.03.1997 without payment of rent to the owner and their possession being adverse, resultantly ripening into ownership. The trial Court does not seem to have committed any illegality or infirmity in striking issue in that regard placing onus of proof upon the defendants. If the defendants have taken up a specific plea which was controverted by the plaintiff and the trial Court felt that the parties were at issue in that regard striking of issue in that respect cannot be held to be wrong. Of course unless the defendants filed a counter claim, they will not be able to get a decree for declaration with regard to their title based on adverse possession in a suit for declaration and possession filed by the plaintiff.

Under the circumstances, I do not find anything wrong with the impugned order, and the revision petition challenging the same is found to be without merit, and is dismissed accordingly.

06.07.2022

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No