

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

212

**RSA-4848-2012 (O&M)
Date of decision: 08.12.2022**

SURJIT KAUR

..Appellant

Versus

MOHAN LAL (DECEASED) THROUGH LRS & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S. Punia, Sr. Advocate
with Ms. Harveen Kaur, Advocate
for the appellant.

Mr. H.S. Dhindsa, Advocate
for LRs of respondent No.1.

ANIL KSHETARPAL, J(Oral)

While assailing the concurrent findings of fact arrived at by the Courts below, the plaintiff has filed this second appeal. She filed a suit for grant of decree of declaration with the relief of possession. She claims that her grand-father purchased the property vide sale deed dated 13.08.1927 and she has been dispossessed from the said property. The defendant No.1-Sh. Mohan Lal claims that he has purchased the property from Sh. Amarjit Singh-defendant No.2 vide registered sale deed dated 01.12.1998.

Both the Courts have held that the plaintiff failed to connect the property purchased vide sale deed dated 13.08.1927 with the suit property. The Courts have held that the description of the property given in all the four directions in the sale deed do not tally/match with the suit property.

This bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

The learned Senior counsel representing the appellant while drawing the attention of the court to the deposition of Sh.Mohan Lal-defendant submits that the possession of the plaintiff's father and thereafter his son Sh. Dev Singh is admitted and hence there is no dispute with regard to the identification of the property.

On the other hand the learned counsel representing Sh. Mohan Lal submits that as per the sale deed, on the east of the property sold, there was door and a passage, whereas, on the Eastern side of the suit property Sh. Dev Singh is in possession. He further submits that all the four directions of the property do not tally/match with the sale deed.

This Court has considered the submissions. The plaintiff has prayed for grant of relief for possession. She is required to establish that her predecessor purchased the suit property, hence, she is entitled to decree of declaration and possession. It is evident from the reading of the sale deed that the property sold has been identified only by the details of the property located on all the four directions. It is evident that the details of the properties on all four directions given in the sale deed do not match/tally with the property in the suit.

The learned Senior counsel representing the appellant at this stage submits that once defendant No.1 has admitted the possession of the plaintiff's father and thereafter, Sh. Dev Singh, hence, there is no dispute with regard to the identity of the suit property. Even as per the plaint, on the east side of the suit property, the possession is with Sh. Dev Singh who is brother of the plaintiff. Sh. Mohan Lal has only admitted that he had seen Sh.Joginder Singh and, thereafter, Sh. Dev Singh residing in the property in

dispute. That admission in the considered view of the Court itself would not entitle the plaintiff to the decree of possession, particularly when both the Courts on appreciation of evidence have already concluded that the plaintiff failed to connect the property to the sale deed. Sh. Mohan Lal is a resident of a village. One sentence in the cross-examination cannot be read in isolation of the entire deposition. Moreover, before the Court holds that the plaintiff (appellant) is entitled to the grant of decree of possession, the Court is required to conclude that the suit property is same as purchased in the sale deed dated 13.08.1927. Once, the description of the property located in all the four directions do not match/tally with the property in dispute, this Court does not find it appropriate to interfere with the concurrent findings of fact only on the basis of the alleged oral statement in one sentence.

Hence, dismissed.

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

December 08th, 2022

Ay

(ANIL KSHETARPAL)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>