

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

RSA-332-2022 (O&M)

Date of decision: 03.02.2022

Sucha Singh and another

....Appellants

Versus

Sukhdev Raj and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Vipin Mahajan, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

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

The defendants no.1 and 2, in a suit for grant of decree for possession, with regard to 10 marlas plot, with a construction thereon, assail the correctness of the concurrent findings of fact arrived at by the courts below. The plaintiff (respondent herein-Sukhdev Raj) filed a suit for possession claiming to be owner of the property in dispute. He claims that defendant no.1 and 2 were handed over possession as a licensee but despite the requests, have failed to return the possession. The defendants contested the suit alleging that their grandfather had received the property in question in exchange of another property with plaintiff's grandfather in the year 1962. Written exchange deed dated 25.04.1962 was produced.

Both the courts on appreciation of evidence have found that the defendant no.1 and 2 have failed to prove the exchange deed dated 25.04.1962. Rather it has been found that defendant's grandfather Sanjhi Ram had died before 03.05.1960. In other words, late Sh. Sanjhi Ram

was not alive on the date the exchange deed is alleged to have been signed by him.

Learned counsel representing the appellants contends that the plaintiff in order to prove that Sanjhi Ram had died before 03.05.1960 has produced a copy of the mutation. He submits that the plaintiff has failed to produce the death certificate of late Sh.Sanjhi Ram.

This Court has considered the submissions. On a Court question, learned counsel representing the appellants admits that the defendants did not produce any evidence to prove that late Sh. Sanjhi Ram was alive on 25.04.1962. Both the courts, on preponderance of probabilities, have decided the suit in the absence of the evidence to prove the exchange deed dated 25.04.1962. The defendants have no right, title or interest in the property.

In view thereof, no ground to interfere is made out.

Hence, dismissed.

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

03.02.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE