

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 387 of 2014 (O&M)

Date of Decision: 10.08.2022

Moja Raj and Others

... Appellant(s)

Versus

Meharval Khewaji Trust, Faridkot

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Ms. Promila Nain, Advocate
for the appellant(s).

Mr. Chetan Mittal, Senior Advocate
with Mr. Kunal Mulwani, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in ***Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157.***

2. The First Appellate Court has reversed the judgment and decree passed by the trial Court on the ground that a suit for declaration that the plaintiff has become owner by way of adverse possession, is not maintainable. The First Appellate Court has relied upon ***Bhim Singh and Others v. Zile Singh and Others 2006(3) RCR (Civil) 97*** to arrive at such finding. The First Appellate Court has not dealt with any other issue.

In view of the judgment passed by the Supreme Court in

Ravinder Kaur Grewal and Others v. Manjit Kaur and Others (2019) 8 SCC 729, the judgment passed in *Bhim Singh's case (supra)* is no longer a good law. Hence, the present appeal is allowed and the judgment passed by the First Appellate Court is set aside while remitting the matter to the First Appellate Court to decide the appeal afresh. The parties, through their learned counsel, are directed to appear before the First Appellate, on 31.08.2022.

4. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

August 10, 2022
“DK”

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