

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

145

2023:PHHC:153246

**RSA-381-2022(O&M)  
Date of decision: 01.12.2023**

**KARAMJIT SINGH AND ORS**

**..Appellants**

**Versus**

**WAZIR SINGH (DECEASED) THROUGH  
LRS AND ANR**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Hardeep Singh Saini, Advocate  
for the appellant.

Mr. S.S. Swaich, Advocate  
Ms. Deepa Negi, Advocate  
and Mr. Sahibjit Singh Sandhu, Advocate  
for respondents.

**ANIL KSHETARPAL, J(Oral)**

1. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the Courts below is assailed by the defendants. The appellants seek to resist the decree of possession passed in favour of the plaintiffs (respondents herein) on the ground that they have perfected their title by way of adverse possession. Both the Courts on appreciation of evidence have come to a conclusion that the defendants have not led any evidence to prove as to when their possession over the suit land became adverse.

2. On a Court question, the learned counsel representing the appellants failed to draw the attention of the Court to any evidence to prove as to when their possession became adverse. Article 65 of the Schedule attached to the Limitation Act, 1963, provides that the period of limitation begins to run when the possession of the defendants becomes adverse to the plaintiffs. Hence, the *sine qua non* for claiming title by prescription of time is the date, time or month when the possession of the defendant became adverse.

3. The learned counsel representing the appellant further submits that the respondents have not produced and proved the registered Will in their favour. He submits that in the absence thereof, the suit filed by the plaintiffs on the basis of title could not be decreed.

4. On the other hand, the learned counsel representing the respondents submits that this aspect was never pressed before the Courts below and the appellants (defendants) cannot be permitted to bring this point for the first time before this Court. In any case, he submits that late Sh. Rur Singh was the original owner. He died issueless and unmarried. The respondents are nephews of Sh. Rur Singh.

5. This Court considered the submissions of the learned counsel representing the parties.

6. The learned counsel representing the respondents is correct in contending that the appellants cannot be permitted to take up a new point for the first time in regular second appeal. Moreover, the defendants are not claiming any right from Sh. Rur Singh. Thus, the respondents have a better title than the appellants.

7. In view of the aforesaid facts and discussion, no ground to interfere is made out.

8. Dismissed accordingly.

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

**December 01<sup>st</sup>, 2023**

*Ay*

**(ANIL KSHETARPAL)**  
**JUDGE**

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