

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIAGRH

RSA No.479 of 1992(O&M)
Reserved On:06.09.2023
Decided on:15.09.2023

Deva Singh and another

...Appellants

Versus

Baljit Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Mittal, Advocate
for the appellants.

Mr. Amit Kumar Jain, Advocate
for respondent no.1.

ANIL KSHETARPAL, J.

1. Defendants no.3 and 4 have filed this regular second appeal to challenge the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for grant of decree of permanent injunction.

2. In order to comprehend the controversy involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The plaintiff filed a suit while alleging that he and a set of individual impleaded as defendant no.2 are the owners in possession of the property and a set of individual impleaded as defendant no.1 has no concern with the suit property.

4. The defendants impleaded in set no.1, namely, defendants no.1 to 5 contested the suit claiming that defendants no.3 and 4 executed two

lease deeds dated 28.05.1986 and thereafter they have purchased the property by way of sale deeds.

5. Both the courts on appreciation of evidence, decreed the suit.

6. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

7. The learned counsel representing the appellants contends that at the most the plaintiff and the defendants became co-sharers because the contesting defendants purchased the property through two different sale deeds. He submits that no decree for injunction could be passed against the co-sharers.

8. On the other hand, the learned counsel representing the respondents (plaintiffs) submits that the appellants are required to prove that their vendors were in possession and they were put in the possession of the property. He submits that in this case, the vendors of the appellants were never in possession of the property.

9. This court has analyzed the arguments and perused the record. It is undisputed that both the lease deeds dated 28.05.1986 are with respect to the land located in village Amargarh, whereas the property in dispute is located in village Laun. The sale deed Ex.DW4/c dated 09.12.1986 is also with respect to the land situated within the revenue estate of village Amargarh, there is only one sale deed with respect to 3 kanals and 15 marlas land located in village Laun. This is 1/63th share of total land measuring 226 kanals and 13 marlas. The appellants are subsequent purchasers of the property in a joint khata. They are required to prove that their vendors were in possession of the property which was delivered to them. In this case, the appellants have miserably failed to prove that fact. It

has also come on record that during the pendency of the suit, entries were changed in the revenue record which were found incorrect by both the courts below.

10. Moreover, in absence of misreading or non-reading of the material evidence which goes to the root of the case in regular second appeal, this court is not expected to interfere. The learned counsel representing the appellants failed to draw the attention of the court to any such material error which affects the result of the case.

11. Keeping in view the aforesaid facts, no ground to interfere is made out.

12. Dismissed.

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

15th September, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO