

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

(1) RSA-1712-1991 (O&M)

Rajinder and others
Versus
...Appellants

Raj Kumari and another
...Respondents

(2) RSA-1731-1991 (O&M)

Rajinder and others
Versus
...Appellants

Raj Kumari and others
...Respondents

Date of decision:-23.02.2023

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Umesh Aggarwal, Advocate for the appellants.
None for the respondents.

H.S. MADAAN, J.

By this judgment, I intend to dispose of above mentioned
two appeals arising out of the same judgment.

2. Briefly stated facts of the case are that plaintiff Raj Kumari
had brought a suit for grant of permanent injunction against defendants
Rajinder etc., whereas Rajinder, Anurag minor son through his mother
as well as Raj Rani had also brought a suit for grant of permanent

injunction against Raj Kumari. Since both the suits were between the same parties regarding the same property, those were tried and disposed of by the trial Court of Addl. Senior Sub Judge, Rohtak, vide a single judgment dated 31.08.1988.

In the civil suit filed by Raj Kumari, she claimed to be owner in possession of plot in suit having purchased the same from one Chandan Ram and Mehar sons of Kalu for a sum of Rs.4000/-, vide sale deed dated 08.08.1967. She claimed that she had dug up the foundations of the plot on two sides upto plinth level. The defendants having no concern therewith tried to interfere in such possession of the plaintiff illegally and forcibly by way of raising construction therein on the basis of some alleged sale deed to which they had no right, therefore, the plaintiff Raj Kumari had brought the suit in question against the defendants on 20.09.1984.

3. On getting notice, the defendants had appeared and filed a written statement, contesting the suit contending that they are in possession of plot measuring 342 sq. yards. Defendants No.1 and 2 had purchased the said plot for a sum of Rs.15,000/- vide sale deed dated 04.07.1984 and they claimed that they are in possession of this plot ever since they purchased the same with which the plaintiff has no concern. According to the defendants, Chandan Ram and Mehar alleged vendors of plaintiff Raj Rani had no right or concern with the suit property and sale deed alleged by the plaintiff is a fictitious

document, rather it is the plaintiff who had been threatening to interfere in possession of defendants, as such, they have filed a separate suit for grant of permanent injunction against Raj Rani and two suits have been consolidated, vide order dated 20.10.1986. The defendants had also taken the plea of adverse possession contending that they are in possession of the property in dispute for the last about 15 years. They prayed for dismissal of the suit.

4. Plaintiff filed replication to the written statement denying the allegations therein, whereas, reiterating the averments in the plaint.

5. On pleadings of the parties, the following issues were framed:-

1. Whether the plaintiff is owner in possession of the plot in dispute? OPP
2. Whether the plaintiff has no locus-standi to file the present suit? OPD.
3. Whether the suit is not maintainable in this present form? OPD.
4. Whether the suit has not been properly valued for the purpose of court fee and jurisdiction? OPD
5. Whether the plaintiff has filed this suit in collusion with Rajinder Kumar, if so, its effect? OPD
6. Whether the suit of the plaintiff is false and frivolous entitling the defendant to special costs under Section 35-A CPC? OPD.
7. Relief.

6. Parties were afforded adequate opportunities to lead evidence in support of their respective claims.

7. After hearing arguments, the trial Court decided issue No.1 in favour of plaintiff Raj Kumari, holding her to be owner in possession of the plot in question further observing that defendants had

no title to the suit land. The case set up by the defendants regarding they being in adverse possession of the plot in suit was also rejected. Issues No.2 to 6 were decided against the defendants and in favour of the plaintiff. Resultantly, vide judgment and decree dated 31.08.1988, the suit filed by plaintiff Raj Kumari against defendant Rajinder etc., was decreed and defendants in Civil Suit No.610 of 1984 i.e. Rajinder, Anurag etc., were restrained from interfering into possession of the plaintiff over the plot in dispute or from restraining from making any encroachment over it whereas suit No.957 dated 17.09.1984 was dismissed with costs.

8. Feeling aggrieved, Rajinder etc., defendants in the main suit had preferred two separate appeals before District Judge, Rohtak, which were assigned to Addl. District Judge, Rohtak, who vide a single judgment and decree dated 18.05.1991 had dismissed both the appeal, affirming the judgment and decree passed by the trial Court.

9. Rajinder and others have approached this Court by way of filing Regular Second Appeals, notice of which were given to Raj Kumari plaintiff in the main suit, however, she did not opt to put in appearance.

10. I have heard learned counsel for the appellants besides going through the record.

11. In this case, both the Courts below i.e. trial Court as well as Ist Appellate Court in view of the pleadings of the parties, the evidence brought on record by them, considering the other facts and

circumstances of the case including legal position have returned concurrent findings that Raj Kumari is in possession of the suit property on the basis of sale deed dated 08.08.1967 whereas claim of the defendants that they are in possession as owners on the basis of sale deed dated 05.07.1984 Ex.D1 was rejected, so was their claim of being in open, hostile and continuous possession of the suit property for the last 15 years and their such possession having ripened into ownership. The defendants could not prove in evidence the sale deed dated 05.07.1984 alleged by them. The explanation given that it had been lost was not found to be proper, though, a certified copy of the sale deed had been tendered into evidence at a later stage but that was not found to be enough to support the claim of the defendants.

12. Both the judgments by the Courts below are quite detailed, well reasoned, based upon proper appraisal of evidence and correct interpretation of law. There is no illegality or infirmity therein, which might have called for intervention by this Court by accepting the Regular Second Appeals. No substantial question of law arises in these appeals. The same are found to be without merit and are dismissed accordingly.

23.02.2023
sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No