

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4139 of 2019 (O&M)

Date of Order:18.10.2023

Harpreet Singh and others

.Appellants

Versus

Sham Lal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S.Thakur, Advocate
for the appellants.

ANIL KSHETARPAL, JCM-11470-C-2019

1. For the reasons mentioned in the application, which is supported by the affidavit, the delay of 148 days in filing the appeal is condoned.

2. CM stands disposed of.

MAIN

3. In this appeal, the correctness of the concurrent findings of fact arrived at by the courts below is challenged by the defendants no.1 to 3.

4. The plaintiff's suit for possession of House No.WA-20, has been decreed by both the courts below.

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

6. It is the case of the plaintiff that Smt. Raj Rani widow of Sh. Beer Bhan was owner of the property. She sold the property to the plaintiff vide registered sale deed dated 06.06.1986, and delivered possession.

Thereafter, the plaintiff remained in possession of the aforesaid property for

some time. Subsequently, he authorised his mother-in-law to look after the property, however, after the death of his mother-in-law, the defendants broke open the lock and occupied the house in question.

7. The defendants while contesting the suit admitted that Smt. Raj Rani was owner in possession. However, it was claimed that Sh. Sham Lal, the plaintiff, executed the agreement to sell on 09.06.1995, in favour of Sh. Gurcharan Singh. The defendants are successors in interest of Sh. Jagdish Singh, who was alleged to be the power of attorney holder of Sh. Sham Lal.

8. Both the courts decreed the suit because Sh. Sham Lal was proved to be owner of the property by virtue of sale deed dated 06.06.1986.

9. The learned counsel representing the appellant though made a sincere attempt, however, failed to draw the attention of the court to any substantive error in misreading or non-reading of the evidence. He also failed to draw the attention of the Court to any perversity in the judgments passed by the courts below. He submits that the suit for possession could only be filed within a period of 6 months of dispossession as per Section 6 of the Specific Relief Act, 1963.

10. This Court has considered the submissions of the learned counsel representing the appellant.

11. The suit filed by the plaintiff (respondent) was based on title and not merely on prior possession. Section 5 of the Specific Relief Act, 1963, enables the plaintiff to file a suit for the possession of immovable property on the basis of his entitlement in the civil court. In this case, the plaintiff never filed a summary suit under Section 6 of the Specific Relief Act, 1963.

12. Keeping in view the aforesaid facts and discussion, no ground

to interfere is made out.

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

October 18, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO