

In the High Court of Punjab and Haryana at Chandigarh

216

RSA-666-2013 (O & M)

Date of Decision: January 16, 2023

SUKHPAL SINGH & ANR

.....APPELLANTS

VERSUS

KULWANT SINGH & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. B. D. Sharma, Advocate for the appellants.

Mr. Sandeep Sharma, Advocate for
Mr. Veneet Sharma, Advocate for respondent No.16.

ANUPINDER SINGH GREWAL, J (ORAL)

The appellants have impugned the judgment and decree dated 21.08.2012 whereby his appeal against the judgment and decree passed by the Civil Judge on 07.05.2010 has been dismissed.

Learned counsel for the appellants submits that the suit land had been duly exchanged by the appellants in terms of Ex.P-2 and, therefore, his suit ought to have been decreed. The factum of the exchange deed has been supported by defendant No.15 in his written statement but he could not be examined as he expired before the evidence could be completed.

Learned counsel for the respondents submits that the appellants could not prove the factum of the exchange and, therefore, the suit had been rightly dismissed.

Heard.

The appellants had filed a suit for joint possession of 2/3rd share of land measuring 05 kanals 18 marlas bearing khasra No.1476 (4-16), 1469 min (1-2) Khewat khatoni No.1053/3363 as entered in the jamabandi for the year

1980-81 and khewat khatoni No.858/2544-45 as entered in the jamabandi 1995-96 situated in Sultanwind Sub Urban, Tehsil and District Amritsar, with consequential relief of permanent injunction restraining defendants No.1 to 13 from selling, mortgaging or transferring and from raising construction in any manner on the land in dispute.

The entire case of the appellants was based on the exchange deed over the suit land. The exchange deed Ex.P-2 is stated to have been recorded on 02.02.1983. The exchange had not been reported to the revenue authorities and there is nothing in the revenue record to indicate that the exchange had indeed taken place. The onus was on the plaintiffs to prove the factum of exchange. During the pendency of the suit, the suit property had been sold to defendant No.16 vide sale deed Ex.D1 dated 13.09.2004. PW-2 had admitted in his cross-examination that the construction had indeed been completed. The suit had been filed after more than 18 years of the alleged execution of the exchange deed Ex.P-2. Even if the exchange had indeed taken place, the appellants were required to report to the revenue authorities promptly and got the same recorded in the revenue record. The appellants had not sought any correction in the revenue record with regard to the ownership and possession of the suit land.

Consequently, I do not find any merit in the appeal which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

January 16, 2023
A.Kaundal

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