

RSA-3414-1987 (O&amp;M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RSA-3414-1987 (O&amp;M)

Reserved on: 20.05.2024

Date of decision: 27.05.2024

DAULAT RAM (DECEASED) THROUGH LRS.

..Appellant

Versus

SHANTI DEVI (DECEASED) THROUGH LRS. &amp; ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

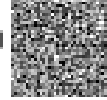
Present: Mr. S.K. Garg Narwana, Sr. Advocate  
with Mr. Vishal Garg Narwana, Advocate  
and Mr. Mukul Ahuja, Advocate  
for the appellant.

Mr. Rakesh Chopra, Advocate  
Mr. Vibhore Bansal, Advocate  
and Mr. Amandeep Singh, Advocate  
for respondents.

**ANIL KSHETARPAL, J.**

1. In this regular second appeal, the plaintiff assails the correctness of the First Appellate Court's judgment, which in turn has reversed the judgment and decree passed by the trial Court.

2. In substance, the appellant filed a suit for possession of a portion of House No.7189/5, situated in Gurbax Colony, Patiala, against Smt. Shanti Devi Singla and her husband. He claims to be the owner of the property by virtue of an unregistered sale deed dated 04.08.1963, allegedly executed by Sh. Gurbax Singh in his favour for Rs.99/-. He also sought damages for the illegal occupation of the premises. The defendant and her husband contested the suit and claimed that originally Sh. Gurbax Singh was

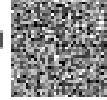


the owner of the property comprised in rectangle No.12 and khasra No. 24/2, which was transferred in favour of Smt. Surjit Kaur, his wife, by virtue of the judgment and decree dated 07.08.1974. She sold the property in favour of Satyawati vide registered sale deed dated 13.01.1977, which, in turn, was sold in favour of defendant No.1 vide registered sale deed dated 19.08.1977. The trial Court decreed the suit, which in appeal has been reversed by the First Appellate Court.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the judgments passed by both the Courts below along with the requisitioned record.

4. The learned Senior counsel representing the appellant has submitted that the local commissioner has reported that House No.7189/5 is owned by the appellant. While referring to the payment of house tax in the year 1967-1968 and the electricity connection, he submits that the judgment of the First Appellate Court is required to be set aside. He further submitted that the entire evidence has not been considered by the First Appellate Court. While referring to the testimony of the appellant, the learned Senior counsel contends that the plaintiff has proved his case.

5. Per contra, the learned counsel representing the respondent, while referring to the copy of the plaint, submits that the plaintiff has filed a suit for the same property against Sh. Sukhdev which was decreed on 24.09.1980 (Ex.PX). He submits that the plaintiff cannot claim the same property once again. He further submits that the sale deed in favour of the plaintiff is not with respect to the suit property because the plaintiff purchased the property out of rectangle No. 18 and khasra No. 8 measuring 60 square yards.



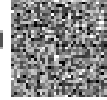
6. The learned counsel representing the appellant has proposed the following substantial question of law:-

- “1. Whether in the given facts and circumstances of the case, the findings and the conclusion arrived at by the Ld. Additional District Judge, Patiala, are perverse?*
- 2. Whether the judgment and decree passed by Ld. Additional District Judge, Patiala, is a result of mis-reading of evidence?*
- 3. Whether the conclusions & findings arrived at by the Ld. Additional District Judge, Patiala, are based on conjectures & surmises?*
- 4. Whether the Ld. Additional District Judge, Patiala, has erred in law in discarding the report of Local Commissioner (Ex.R-3) ?*
- 5. Whether in the given facts and circumstances of the case, defendants/respondents have proved their plea of bonafide purchaser of the suit land for consideration?*
- 6. Whether the plaintiff/appellant is entitled to the decree for possession of suit property along with mesne profit?*
- 7. Whether the grave and the manifest injustice has been caused to the appellant/plaintiff?”*

7. However, at the time of final arguments, the learned counsel representing the appellant has failed to draw the attention to any substantial question of law involved in this case. These proposed substantial questions of law were never pressed by the learned counsel representing the appellant at the time of the final hearing.

8. This Court has considered the submissions and analyzed the arguments of the learned counsel representing the parties. The appellant, while filing a suit, has claimed that the possession of the property which is bounded as under:-

- |               |                                                                   |
|---------------|-------------------------------------------------------------------|
| <i>“North</i> | <i>: Road</i>                                                     |
| <i>South</i>  | <i>: House of Jaipal, Lal Singh and another. Originally land.</i> |
| <i>East</i>   | <i>: House of Lopi Singh originally land of Gurbux Singh.</i>     |
| <i>West</i>   | <i>: Originally Shamsher Singh now Hari Ram.”</i>                 |



9. On a bare look at Ex.PX, it becomes evident that the plaintiff filed a similar suit against Sh. Sukhdev which was decreed on 24.09.1980.

The property claimed in the aforesaid suit was bounded as under:-

*“North : Road  
South : Plot of Jai Pal  
East : Plot of Alopi Singh  
West : Plot of Hari Ram”*

10. It is also evident from the perusal of judgment passed by the First Appellate Court that the plaintiff purchased the property out of rectangle No. 18 and khasra No. 8 which was located on the boundary of village Tafjalpura. Moreover, on the basis of the sale deed executed in favour of the plaintiff, the revenue authorities separated his portion. The dimensions of the aforesaid plot which was separated for the plaintiff has the following dimensions i.e. 50 karams in length and 14 karams wide on one side and 9 karams on the other side. In the site plan, its dimensions are 19 feet on the Northern side, 94 feet and 8 inches on the Southern side and 49 feet and 4 inches on the Eastern side and 18 feet and 2 inches on the Western side, whereas, the plaintiff has sought possession of an entirely different plot. The First Appellate Court has also found that the Municipal Committee has allotted same municipal number to two different properties which has further complicated the situation. After elaborately discussing the local commissioner's report, the First Appellate Court has found that the plaintiff has failed to prove that he is entitled to possession. The correctness of the aforesaid findings has not been assailed before this Court. Moreover, the payment of house tax or electricity connection would not advance the plaintiff's case. The First Appellate Court has elaborately discussed the evidence by re-appreciating the evidence. All the relevant evidence has

already been examined by the First Appellate Court. Moreover, the plaintiff’s case held no firm ground. He was required to prove his case by preponderance of evidence. Moreover, the plaintiff purchased the property on the boundary of village Tafjalpur, whereas the disputed property is located in Gurbax Colony, Patiala. Furthermore, it is evident that there was a litigation between Smt. Sumit Kaur and Sh. Daulat Ram. She filed a suit wherein the appellant was impleaded as defendant No.1. It was alleged by her that the appellant is trying to dispossess her. On 05.01.1977, the appellant suffered a statement that he will eject Smt. Sumit Kaur in accordance with law.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere with the findings of facts arrived at by the First Appellate Court is made out. Hence, the present appeal is dismissed.

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

May 27<sup>th</sup>, 2024

(ANIL KSHETARPAL)

Ay

JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No