

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

RSA-1045-1992
Date of decision: 22.02.2024

BHALE RAM (DECEASED) THROUGH LRS. & ORS.

..Appellants

Versus

STATE OF HARYANA & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep, Advocate
for the appellants.

Mr. J.S. Pannu, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the plaintiff assail the correctness of the judgment and decree passed by the First Appellate Court, which in turn has reversed the judgment and decree passed by the trial Court. In substance, he claims decree for declaration that he has perfected his title by way of adverse possession of the suit property for the last more than 12 years and the proceedings initiated by the State of Haryana under Section 4, 5, and 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972, are illegal, null and void. The plaintiff claims that Sh. Arjun was the owner of 20 kanal and 10 marlas land, who died on 28.09.1967. Smt. Manbhari filed a petition for ejectment of the appellant, which was allowed on 12.05.1969. He claims that Smt. Manbhari was not the widow of Sh. Arjun.

2. Defendant No.1 to 4 i.e. Smt. Manbhari etc. were proceeded against ex parte. The State of Haryana contested the suit. It was asserted that the plaintiff previously also filed a suit claiming decree of declaration that he is non-occupancy tenant in possession of the property, which was dismissed on 19.10.1978.

3. The trial Court decreed the suit while holding that the defendant No.1 to 4 though ex parte are legal representatives of Sh. Arjun and the plaintiff has perfected his title by way of adverse possession. The First Appellate Court on reappreciation of evidence held that Smt. Manbhari etc. are not heirs of Sh. Arjun. In fact, the appellant while filing the Civil Suit No.218 asserted that Sh. Arjun died issueless. Thus, the Court held that the plaintiff is trying to continue with possession by indulging in repeated litigations. The First Appellate Court also relied upon the judgment Ex.DX to prove that the plaintiff has failed to prove that he has perfected his title by way of adverse possession.

4. The learned counsel representing the appellant while referring to the findings of the fact arrived at by the trial Court submits that the First Appellate Court has erred in reversing the judgment. He submits that the property will not eschewed in favour of the State because Sh. Arjun had left behind his widow Smt. Manbhari and children.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. Defendant No.1 to 4 have not contested the suit. No evidence has been led to prove that Smt. Manbhari was the widow of late Sh. Arjun. In fact, a previous suit was filed by the plaintiff in which it was declared that

Smt. Manbhari was not the widow of late Sh. Arjun. This appeal has not been preferred by the alleged legal representatives of Sh. Arjun.

7. Still further, the appellant is claiming to have perfected his title by way of adverse possession, however, it is evident that in the year 1969, he was ordered to be evicted, thereafter, he filed a suit in the year 1970 following by yet another suit in the year 1972, followed by yet another suit in the year 1977.

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

9. Dismissed accordingly.

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

February 22nd, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No