

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

RSA-760-1992
Date of decision: 22.02.2024

MAMAN (DECEASED) THROUGH LRS.

..Appellant

Versus

DHARAM SINGH (DECEASED) THROUGH LRS. & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S. Kundu, Advocate
for the appellant.

Mr. I.S. Pabla, Advocate
for respondent No.1(iv).

Mr. Ravi Kamal Gupta, Advocate
for respondent No.1, 4, 5 and 10.

Mr. Rakesh Nehra, Sr. Advocate
with Mr. Ankit Yadav, Advocate
for respondent No.3 and 6.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the defendants assail the correctness findings of fact arrived at by the Courts below while decreeing plaintiff suit for possession with respect to plot No.262.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
3. The plaintiff (respondent herein) filed suit for possession on the ground that in a previous suit for partition, the plaintiff was allocated plot No.256, 209, 587, 263/2 and 262 and 260 vide judgment and decree dated 12.11.1971. In execution of the aforesaid decree, the possession was delivered to the plaintiff on 04.04.1974, however, the defendants have taken

over illegal possession of the property a week before the filing of the suit.

The defendants while contesting the suit claimed that they are not party to the partition proceedings and hence, the same is not binding on them. They claimed to be in possession of the property being original inhabitant of the village from time and memorial and they have constructed their houses.

4. Both the Courts on appreciation of evidence came to firm conclusion that the appellants failed to prove that they had perfected their title by way of adverse possession due to efflux of time.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

6. The learned counsel representing the appellant while referring to the order passed on 20.11.1992 and the report submitted by the revenue official submits that the houses of the defendants on the plot, which were in dilapidated condition. He submits that the defendants' possession is proved for the last 30 years before the filing of the suit and therefore, the suit of the plaintiff could not be decreed.

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

8. When the appeal was pending for motion hearing, a Coordinate Bench had directed the Revenue Officer, Bahadurgarh to demarcate plot No.262 and report 'whether or not a house exist on this plot'. The report has been received to the effect that house does exist, however, that would not itself be sufficient to deprive the respondent from decree of possession. The appellants-defendants before the trial Court are further required to prove that they have perfected their title by way of adverse possession due to efflux of

time. For proving adverse possession, the defendants are required to prove

the date or the time when their possession became adverse. Mere length of possession is not sufficient to claim that they have perfected their title by way of adverse possession. In this case, there is a decree for partition of the property according to which the plaintiff has become exclusive owner of the property.

9. In such circumstances, there is no ground to interfere with the findings of the fact.

10. Hence, dismissed accordingly.

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

February 22nd, 2024

Ay

(ANIL KSHETARPAL)
JUDGE

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