



RSA-1118-1991 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(101)

RSA-1118-1991 (O&M)

Date of decision:- 11.12.2024

Isher Singh (Since deceased) through LRs

...Appellants

Versus

Satnam Singh Katari and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. G.S.Punia, Senior Advocate, with
Mr. Surjit Singh Swaich, Advocate,
Ms. Ishani Goyal, Advocate,
Ms. Deepika, Advocate, and
Ms. Navjot Kaur, Advocate, for the appellants.

Mr. Akhil Kashyap, Advocate, for
Mr. P.K.Kataria, Advocate, for the respondents.

...

SUVIR SEHGAL, J. (Oral)

1. Appellants-plaintiffs is in second appeal before this Court challenging the judgment and decree dated 25.02.1991, passed by the First Appellate Court.

2. Pleaded case of appellants-plaintiffs is that they are owners of a piece of land measuring 0-0-9B comprised in Khasra No.5394/3825/1994/1374, in village Taraf Saidan, Tehsil and District Ludhiana. Taking advantage of the absence of the plaintiffs, who are residing in their native village, defendants, who owned an adjoining plot with some construction, took forcible possession of the suit land. Despite request, defendants refused to hand back the



possession, forcing the plaintiffs to file a suit for vacant possession after demolishing the structure. Suit was contested by the defendants by taking preliminary objections and the claim of the plaintiffs was denied. Plaintiffs filed a replication re-asserting the claim. On the basis of the pleadings of the parties, issues were framed and after trial, by judgment dated 29.04.1987, Trial Court decreed the suit. In appeal preferred by the defendants, First Appellate Court reversed the judgment and decree of the Trial Court and dismissed the suit by the impugned judgment, resulting in the institution of the present appeal by the plaintiffs.

3. Learned senior counsel has argued that the appellants purchased the property in question through a registered sale deed, Exhibit P-4, in the year 1946. He has made a reference to the Jamabandi in the year 1982-83, Exhibit P-6, to claim that the appellants are owners of the property, which has been assessed to land revenue. Reliance has also been placed by him upon the report of Shri Kuldeep Singh, Naib Tehsildar, PW-3, to assert the claim of ownership and urges that the first appellate court has erred in discarding the report. On the other hand, counsel for the respondents has supported the findings recorded by the appellate court.

4. I have heard counsel for the parties and considered their respective submissions besides examining the Trial Court record with their able assistance.

5. Evidence led by both the parties establishes that they had separately purchased different plots by registered sale deeds and their properties are contiguous. The appellants have based their entire claim on the report dated



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30.11.1984, Exhibit P-1, of Shri Kuldeep Singh, PW-3, Naib Tehsildar. However, this report was prepared by Shri Kuldeep Singh, PW-3, without associating the defendants. The details of the measurement of the property could not be given by PW-3, in his cross-examination. He neither prepared any site plan on the spot, nor did he ask the appellants to produce the sale deed of the property. When questioned on the nature of the disputed property, he could not give any details. He did not even consult the revenue record before preparing the report and was unable to give any particulars of the alleged construction on the disputed plot. It seems that he has prepared the report simply on the dictates of the appellants. Such a report has rightly been discarded by the lower appellate court. As the said report could be taken into consideration, appellants are not left with any other evidence to establish that the defendants had encroached upon the suit property. Appellants did not seek appointment of a Local Commissioner, either before the first appellate court, or before this Court in order to prove their case. This Court, therefore, does not find any infirmity in the judgment passed by the first appellate court, which is affirmed. Finding no merit in the appeal, it is dismissed with no order as to cost.

6. Pending application, if any, is disposed of.

(SUVIR SEHGAL)
JUDGE

11.12.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes