

2024:PHHC:046776

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision :05.04.2024

...Appellants

...Respondents

2. The entire claim of the appellants(defendants) is based upon acquisition of title by way of adverse possession. Originally, Daulat Ram, defendant's father suffered a decree in favour of defendants on 25.02.1977, which was set aside in a suit filed by the plaintiff vide judgment and decree dated 31.07.1984 (Annexure P-4). The appeal against the aforesaid decree was also dismissed. Subsequently, the plaintiff filed a suit for possession of half share of the property. The Court found that parties are co-sharers and plaintiff cannot maintain a suit for possession. They have to seek partition of the property. The counter-claim filed by the defendants was dismissed on the ground that they have failed to prove their adverse possession.

3. It is evident that the appellants entered into possession pursuant to the decree passed on 25.02.1977, thus, their possession was not adverse. It was by virtue of a decree passed by the Competent Court, which was set aside in the year 1984. The present suit was filed by the plaintiff on 05.05.1989. Thus, the possession of the appellant was never undisturbed. It was always subject to the litigation, which was pending in the Court.

4. Hence, no ground to interfere is made out.

5. Dismissed.

05.04.2024

neeraj

Whether speaking/reasoned :

Whether Reportable :

(ANIL KSHETARPAL)

JUDGE

Yes

No

Yes

No