



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.32 of 1994 (O&M)

Date of Order:14.05.2024

Sant Ram

.Appellant

Versus

Lachhmi Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Dhivya, Advocate
for the appellant.

ANIL KSHETARPAL, J

1. This is the defendant's regular second appeal against the concurrent findings of fact arrived at by the courts below while decreeing the plaintiffs' suit for possession regarding plot marked with words 'BCEF' in the layout plan attached with the plaint.

2. While filing the suit, the plaintiffs, who are successor in interest of Sh. Piara Lal claimed that the suit property was ancestral property of Sh. Piara Lal, who has died and the plaintiffs are entitled to possession of the same.

3. The defendants, on the other hand, claimed that the suit property is their ancestral property and Sh. Piara Lal was not owner of the site in dispute. An oral evidence was led by the parties.

4. Upon appreciation of the evidence, both the courts below recorded the concurrent findings of fact that the plaintiffs have successfully proved their case and the defendant-Sant Ram (appellant) has admitted that the plaintiffs are owners of the property in dispute.

5. This Bench has heard the learned counsel representing the



appellant at length and with her able assistance perused the paper book.

6. The learned counsel representing the appellant has made the following two submissions:-

(1) It was necessary for the plaintiffs to seek declaration of title and in absence thereof the suit for possession was not maintainable. She relies upon the judgment passed by the Supreme Court in Anathula Sudhakar vs. P.Buchi Reddy (Dead) by LRs & Ors.2008(4) SCC 594.

(2) The plaintiffs have not produced any documentary evidence to prove their ownership.

7. This court has considered the submissions of the learned counsel representing the appellant, however, find no substance therein.

8. Once the plaintiffs filed a suit for the grant of decree of possession, the declaration is integral part thereof. The plaintiffs filed a suit claiming that they are entitled to possession of the property. Hence, the declaration of their entitlement is inevitable. The judgment relied upon by the learned counsel representing the appellant is in the context of various kinds of suits for injunction. The learned counsel representing the appellant wants to read the judgment like a statute which is not the correct way of reading the judgment. The ratio decidendi is binding and not every observation.

9. With regard to the second submission, it may be noticed that upon appreciation of the evidence, both the courts below have come to a conclusion that the plaintiffs have successfully proved their case. In para 15 of the judgment of the trial court, it has been noticed that the defendant has

himself admitted that the plaintiffs are owners of the property. The learned counsel representing the appellant has not disputed its correctness.

10. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

11. Dismissed.

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

May 14, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO