

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

RSA-207-1995 (O&M)
Date of Decision : 09.04.2024

SUCHA SINGH

.... Appellant

VERSUS

CHAMAN LAL & ORS.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gurmeet Singh Saini, Advocate for
Mr. S.C. Chhabbra, Advocate for the appellant.

Mr. Arshdeep, Advocate for the respondents.

ALKA SARIN, J. (ORAL)

1. The present regular second appeal has been preferred by the defendant-appellant challenging the judgment and decree dated 27.09.1994 passed by the First Appellate Court.

2. The brief fact relevant to the present case are that the plaintiff-respondents herein filed a suit for declaration to the effect that they are the owners of plot (old) Nos.25, 26 measuring 8 marlas comprised in Rect. No.208 Killa No.1/8(0-8) situated in Braham Nagri, Ferozepur City. On notice, the defendant-appellant appeared and filed written statement. The case set up by the defendant-appellant was that he had purchased plot Nos.21, 22 and 17 and that the sale deeds in respect of those plots was Ex.D1 and Ex.D2. The defendant-appellant never staked any claim on plot Nos.25 and 26. The Trial Court dismissed the suit vide judgment and decree dated 14.11.1991 on the ground that there was no demarcation of the plots. Aggrieved by the same an appeal was preferred by the plaintiff-respondents.

Vide judgment and decree dated 27.09.1994 the appeal was allowed and the First Appellate Court decreed the suit of the plaintiff-respondents holding them to be the owners of the plots in dispute i.e. plot (old) Nos.25 and 26 and that they were entitled to get possession over the same. Hence, the present regular second appeal by the defendant-appellant.

3. Learned counsel for the defendant-appellant would contend that the defendant-appellant has not staked any claim on plot Nos.25 and 26. However, their claim is qua plot Nos.21, 22 and 17. Learned counsel would further contend that the only grievance of the defendant-appellant is that his possession over the said plots be protected.

4. *Per contra*, learned counsel for the plaintiff-respondents has contended that the appeal has been allowed only qua plot Nos.25 and 26 as filed by the plaintiff-respondents and that no order has been passed qua plot Nos.21, 22 and 17.

5. Heard.

6. In the present case the grievance of the defendant-appellant is that his possession over plot Nos.21, 22 and 17 be protected. A perusal of the judgments and decrees passed by both the Courts would reveal that no counter-claim was filed by the defendant-appellant qua the properties being plot Nos.21, 22 and 17. However, it was stated in the written statement that the defendant-appellant was the owner of the said plots on the basis of the sale deeds. There is no adjudication by both the Courts below on the issue of his ownership. In view thereof the apprehension of the learned counsel for

the defendant-appellant that the possession of the defendant-appellant over the plots would be interfered on the basis of the judgment and decree passed by the First Appellate Court is totally baseless. The First Appellate Court has merely decreed the suit of the plaintiff-respondents qua plot Nos.25 and 26 on which admittedly the defendant-appellant has no right, title or interest.

7. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The regular second appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

09.04.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO