

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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RSA-3976-2023 (O&M)  
Reserved on : 05.01.2024  
Pronounced on : 08.01.2024

JAI BHAGWAN AND ANOTHER

....Appellants

VERSUS

RISHI DEV AND ANOTHER

....Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Kulvir Narwal, Advocate for the appellants.

**ALKA SARIN, J.**

**CM-14193-C-2023**

This is an application for condonation of delay of 24 days in  
refiling the appeal.

For the reasons stated in the application, delay of 24 days in  
refiling the appeal is condoned.

CM stands disposed off.

**RSA-3976-2023**

1. The present Regular Second Appeal has been preferred by the  
defendant-appellants against the judgment and decree dated 14.07.2023  
passed by the learned First Appellate Court.

2. The brief facts relevant to the present *lis* are that the plaintiff-  
respondents filed a suit for a decree of permanent injunction on the ground  
that they were owners in possession of the house shown by letters ABCD in  
the site plan (hereinafter referred to as the 'suit property'). It was further  
averred that the said house was purchased by one Umed Singh and Chandan

Singh (the predecessors-in-interest of the plaintiff-respondents) vide sale deed dated 08.07.1968. It was further averred that since the suit property was in a dilapidated condition the plaintiff-respondents intended to reconstruct the same, however, the defendant-appellants were interfering in their possession and were not permitting them to raise the construction. Hence, the suit.

3. The defendant-appellants filed a written statement raising preliminary objections qua maintainability, cause of action and non-joinder of necessary parties. On merits it was contended that the suit property was an open plot and there was no house in existence. It was further averred that the said plot was being used by all the co-sharers. It was further the stand taken that the property was initially owned by one Smt. Jeo daughter of Naryan Singh, who owned the same to the extent of half share, and the remaining half share was owned by Shri Chand son of Har Lal and Badlu son of Netram in equal shares. Netram had one son namely Badlu and one daughter namely Jiwani. Badlu died issueless and his property was inherited by his sister, namely, Jiwani. On the death of Jiwani her legal heirs inherited her property. It is further the stand taken in the written statement that the share of Badlu was purchased by Umed Singh and Chandan Singh and the share of agricultural land and plots of *Abadi Deh* were purchased by the ancestors of the defendant-appellants through registered sale deed. It was further averred that the plaintiff-respondents had no right, title or interest in the suit property.

The Trial Court dismissed the suit vide judgment and decree dated 23.11.2022. Aggrieved by the said judgment and decree passed by the Trial Court an appeal was preferred which was allowed by the First Appellate Court vide impugned judgment dated 14.07.2023. Hence, the present Regular Second Appeal by the defendant-appellants.

4. Learned counsel for the defendant-appellants would contend that the plaintiff-respondents had not approached the Court with clean hands inasmuch as it had been pleaded that the suit property was a house, however, it is a vacant plot. It is further the contention that the defendant-appellants are co-sharers in the suit property and hence they cannot be enjoined from using the suit property.

5. Heard.

6. In the present case though it has been mentioned that there was a dilapidated house, however, the First Appellate Court found that the old construction had been dismantled with the passage of time and that this was apparent from the site plan (Exhibit P-1) that the plaintiff-respondents had attached with the plaint. That being so, the argument of the learned counsel for the defendant-appellants cannot be accepted as the site plan which is appended with the plaint clearly depicts the suit property of being a vacant piece of land. The second argument of the learned counsel for the defendant-appellants that the plaintiff-respondents are co-sharers in the suit property also cannot be accepted in view of the fact that there is not even an iota of evidence led by the defendant-appellants to show their ownership qua the suit property. It is trite that ownership of a vacant piece of land goes by the

title. In the present case though it has been averred in the written statement, and which has also been argued by the learned counsel for the defendant-appellants, that they are co-sharers in the suit property, however, on a pointed query as to the nature of the evidence led by the defendant-appellants to show their ownership qua the suit property, learned counsel for the defendant-appellants has candidly admitted that not a single document was produced in evidence to show their ownership.

7. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The present Regular Second Appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

**08.01.2024***Aman Jain***( ALKA SARIN )  
JUDGE**

*NOTE :        Whether speaking/non-speaking: Speaking  
                  Whether reportable: Yes/No*