

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1550 of 2022(O&M)

Date of Order:28.02.2024

Radha and others

.Appellants

Versus

Sandeep and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. R.K.Choudhary, Advocate
for the appellants.**

ANIL KSHETARPAL, J

1. In this regular second appeal, the defendants assail the correctness of the judgment and decree passed by the first appellate court which in turn has reversed the judgment and decree passed by the trial court.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The plaintiffs filed a suit for grant of decree of permanent injunction restraining the defendants from interfering in their peaceful possession of plot measuring 59'x61' located in Shyam Colony, Hodal, District Palwal. It was claimed by the plaintiffs that their grand mother Smt. Parmeshwari Devi purchased the property on 20.11.1987 from Smt. Mewa wife of Sh. Sunder Ram. During her life time, she constructed a boundary wall and laid foundations for construction of the house. Some sheds have also been constructed apart from a toilet. The defendants have purchased the plot on the western side of the plaintiff's plot.

4. The defendants while contesting the suit claimed that Sh. Het Ram was lessee for a period of 99 years, however, he cancelled the lease

deed on 11.03.2010 and thereafter the property was transferred to Sh. Gianender son of Sh. Het Ram, who continues to be in possession of the property.

5. The trial court dismissed the suit, however, the first appellate court found that Sh. Het Ram cancelled the lease, but he did not relinquish his rights only in favour of Sh. Gianender. It was held that the lease was with respect to 47 kanals and 2 marlas land. DW8-Ram Parshad has demolished the case of the defendants wherein he has claimed that the Anganwari Centre which was opened by the defendants has been closed. Moreover, the appellant-Radha appeared as DW7. In the cross-examination she undertook to produce the sale deed of 166 square yard in her favour. The hearing of the case was adjourned. However, she did not produce the same although she claims the property from Sh. Het Ram. It has also come on record that she is staying in her own house which is at different location. It has also come on record that the entire area has been developed and more than 100 houses have been constructed.

6. Thus, the first appellate court reversed the judgment and decree passed by the trial court.

7. The learned counsel representing the appellants submits that the appellants are successor in interest of Sh. Gianender and therefore, they are owners of the property as it is an undivided share.

8. This court has considered the submissions of the learned counsel representing the parties

9. The first appellate court recorded a finding of fact that the colony has already been carved out and more than 100 houses have been constructed. The Municipal Committee has also constructed roads in the

colony. The plaintiff is only claiming plot measuring 59x61 square feet which was purchased by their grand mother. The appellant no.1 though given opportunity, however, failed to produce the sale deed in her favour.

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.

February 28, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO