



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 6881 of 2016 (O&M)

Date of Decision: 18.03.2025

Bijender

... Appellant(s)

Versus

Surender Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. B.R.Rana, Advocate
for the appellant(s).

Mr. Vikram Singh and Mr. Simranpreet Singh, Advocates
for the respondents.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The defendant No.3 assails the correctness of the concurrent findings of facts arrived at by both the Courts below while decreeing the plaintiff's suit for the grant of permanent and mandatory injunction and for possession.

3. The plaintiff filed a suit complaining unauthorized encroachment by the defendants over the encroached portion marked with the letters ABCD. The suit was filed on the basis of the demarcation report which was carried out by an experienced revenue official who found that the defendants have unauthorizedly and unlawfully encroached upon the land measuring 55 square yards of the property comprised in khasra No. 733.

4. The defendants contested the suit on the ground that there was a

family settlement in the year 1992 in which the suit property fell to his share. In the alternative, he claims perfection of his title by way of adverse possession. Both the Courts below held that neither defendant No.3 proved the family settlement nor he was able to prove his adverse possession.

5. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

6. The learned counsel representing the appellant contends that both the appellant and the plaintiff are brothers and there was a family settlement in the year 1992 giving the suit property to the appellant.

7. This Court has considered the submissions of the learned counsel representing the parties.

8. There is no document produced by the appellant evidencing the family settlement. The oral evidence led by the parties has been appreciated by both the Courts below. The learned counsel representing the appellant has failed to draw the attention of the Court qua wrongful appreciation of the oral evidence.

9. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

10. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 18, 2025

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No