

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

116

**RSA-1762-2018 (O&M)
Date of decision: 27.01.2025**

SHAYAM LAL @ SHYAM LAL AND ANR**..Appellants**

Versus

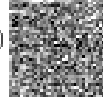
RAMESH KUMAR MEHTA**..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Ms. Sarika Gupta, Advocate
for the appellants.

Mr. Sanjiv Sharma (legal aid counsel)
for respondent.

ANIL KSHETARPAL, J(Oral)

1. The correctness of concurrent findings of fact arrived at by the Courts below is challenged by the defendant in this regular second appeal.
2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.
3. The plaintiff is grand-son of late Sh. Shiv Ram. He filed suit for possession of a shop. He claimed that defendants entered into possession of the disputed shop when he was away to Chandigarh for treatment of his wife. The defendants contested the suit claiming that their predecessor in interest Sh. Jagan Nath and Dewan Chand purchased the suit property vide registered sale deed dated 18.08.1928.
4. Upon appreciation of evidence, both the Courts have held that the disputed shop was not a part of the sale deed dated 18.08.1928. After comparing the description of the property recited in the sale deed dated



18.08.1928, the Courts have held that the boundaries as mentioned in the sale deed prove that the shop in dispute was owned by Sh. Milkhi Ram. However, while executing sale deed on 18.08.1928, he did not sell the suit property to the defendants. Thus, the Courts have found as a matter of fact that the shop in dispute is not part of the property purchased by the defendants.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

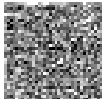
6. Learned counsel for the appellant submits that the sale deed dated 18.08.1928, proves the appellants ownership. She submits that remaining heirs of late Sh. Shiv Ram have not been impleaded as a party to the suit. She further submits that the property is in possession of the appellants for the last 50 years and therefore, they have perfected their title by way of adverse possession.

7. Per contra, learned counsel for the respondent has relied upon the deposition of Sh. Jatinder Kumar, who was tenant in possession of property under the plaintiff or his predecessors. He submits that from the statement of Sh. Jatinder Kumar, it is proved that defendants subsequently encroached upon the property.

8. This Court has considered the submissions of learned counsel for the parties.

9. In para 11 of the judgment passed by the First Appellate Court, the description of the boundaries of the property purchased by the defendants has been reproduced, which is extracted as under:-

*“East : Street, West : Kehru Jatt
North : Mahru @ Ishar, South : Shop owned by the vendor”*



10. Learned counsel for the appellant does not dispute the correctness of findings to this effect. Smt. Savitri Devi-defendant No.2 appeared as DW-1. She admitted that shop situated at the Southern side was retained by Sh. Milkhi Ram. Thus, the findings of fact arrived at by the Courts below are not suffering from any error.

11. With regard to objection of non-joinder of parties, it may be noted that plaintiff is grand-son and one of the heirs of late Sh. Shiv Ram, hence, he is entitled to file a suit.

12. The last submission of learned counsel for the appellants lacks substance because defendants have failed to prove that they have perfected their title by way of adverse possession.

13. Hence, no ground to interfere is made out.

14. Dismissed accordingly.

15. Learned counsel for respondent submits that there is an inadvertent error in order dated 10.01.2025. His fee is to be paid by High Court Legal Services Authority and not Punjab Legal Services Authority.

16. Ordered accordingly.

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

January 27th, 2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No