



RSA-2816-2024 (O & M)

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

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RSA-2816-2024 (O & M)

Date of decision:14.02.2025

**SMT. MUKESH DEVI (DECEASED) THROUGH LRS AND ANR
...APPELLANTS**

VS.

**ROHTASH (DECEASED) THROUGH LRS AND ORS
...RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

**Present: Mr. Sumeet Jain, Advocate
for the appellants.**

SUVIR SEHGAL, J.

CM-11585-C-24 & CM-11586-C-2024

1. For the reasons given in the applications, they are disposed off.
2. Legal representatives of the deceased-appellant No.1 and deceased-respondent No.1 are impleaded in place of the deceased, subject to all just exceptions.

Main Case

3. Appellant/defendants are in the second appeal assailing the concurrent finding recorded by both the Courts below.



4. Pledged case of the respondents/plaintiffs is that the Gram Panchayat, Budhera, allotted pits measuring 30 square yards each for storing waste. The plots are in their possession and their names are reflected in jamabandi for the year 2013. As the pits had temporary brims, plaintiffs collected some building material for making them permanent, but defendant No.1 started quarrelling and interfered in the construction. A suit for permanent injunction restraining the defendants from encroaching upon the manure pits was filed. A further relief was sought that in case, the defendants succeeded in encroaching upon or raising construction on the manure pits, then a decree for possession and for permanent injunction be passed.

5. Upon notice, defendants filed a written statement contesting the suit. They raised various preliminary submissions and took a stand that they are in possession of the suit property since their forefathers. It has also been averred that they have constructed boundary walls and rooms and are using the area for tethering cattle and storing dung cakes for fire wood. It was denied that the land was allotted by the Gram Panchayat. Trial Court framed issues on the basis of pleadings of parties, who led evidence in support of their case. After contest, by judgment and decree dated 01.02.2019, Trial Court decreed the suit and directed the defendants to hand over the vacant possession of the suit property to the plaintiffs within a period of one month. Defendants remained unsuccessful before the first appellate court and appeal was dismissed by the learned Additional District Judge, Gurugram, vide judgment dated 11.11.2024 resulting in the institution of the present appeal.



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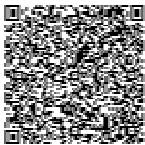
6. Mr. Sumeet Jain, counsel for the appellants, has argued that the plaintiffs have failed to prove the title. He asserts that the plaintiffs cannot claim possession without proving that they were dispossessed. Reference has also been made by him to the testimony of Rohtash (PW-1).

7. I have considered the arguments addressed by counsel for the appellants, besides examining the paper-book.

8. Evidence led by plaintiffs show that as per jamabandi for the year 2013 (Ex.P-2), the name of the plaintiff is shown in the cultivator column of the suit property. In the ownership column, the property has been described as '*Jumla Mushtaraka Malkan Digar Hakdaran Hasab Rasad*'. The revenue entries are in favour of the plaintiffs and establish that they are in possession of the suit property. Defendants, on the other hand, have claimed ownership, but except for producing some photographs and the electricity bill, Kuldeep (DW1) has been unable to produce any evidence to establish his title. Ram Parkash (PW2), who is the Sarpanch of village Budhera has supported the plaintiffs and has deposed that on an earlier occasion also the defendants have dispossessed the plaintiffs and possession was restored with the intervention of the Panchayat. Sunil Kumar (PW3), an ex-member of the Panchayat has also supported the stand of the plaintiffs.

9. Defendants have not been able to impeach the testimony of the witnesses produced by the plaintiffs. On the other hand, defendants have miserably failed to prove the capacity, in which, they possess the suit land. Although, record of allotment of land in favour of the plaintiffs has not been produced, but the statements of the witnesses establish the allotment in their

favour. Moreover, the revenue entries, although they do not confer any title,



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prove the possession of the plaintiffs. This Court does not find any infirmity or illegality in the judgments passed by the Courts below, which are affirmed.

10. Appeal being devoid of merit, is dismissed, with no order as to costs.

14.02.2025 (SUVIR SEHGAL)
sheetal JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No