



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

114

RSA-5517-2018 (O&M)

Date of Decision: 15.01.2025

Vakil Chand

.... Appellant

Versus

Rajinder Kaur and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Himanshu Setia, Advocate for
Mr. Parvez Chugh, Advocate for the appellant.

NIDHI GUPTA, J. (ORAL)

This is the defendant's second appeal against the judgment and decree dated 15.03.2018 of Ist Appellate Court, vide which the judgment and decree dated 14.07.2017 passed by the learned trial Court decreeing the '*suit for permanent injunction*' filed by the plaintiff-respondents was affirmed and the appeal preferred by the defendant-appellant was dismissed.

The matter pertains to the year 2018 and notice is yet to be issued in the same.

Perusal of order-sheets shows that earlier the matter was listed for hearing 06 times i.e. on 10.01.2019, 12.03.2020, 10.10.2023, 21.02.2024, 20.05.2024 and 05.09.2024, out of which on consecutive 04 dates i.e. 10.01.2019, 12.03.2020, 10.10.2023 and 21.02.2024 the appellant had gone un-represented; whereas on the remaining two dates i.e. 20.05.2024 and 05.09.2024, the case was adjourned at the request of learned counsel for appellant.



Today for the 07th time when this case was listed for hearing, learned proxy counsel appearing for the petitioner prays for an adjournment on the ground that learned arguing counsel is in some personal difficulty. There is no justification to entertain the aforesaid request for an adjournment made by learned proxy counsel for the appellant.

From the above, it can safely be presumed that the appellant or his counsel is not interested in pursuing the instant second appeal seriously. Thus, this Court is left with no other option except to dismiss the present regular second appeal for non-prosecution.

On Merits

Admittedly, this is the defendant-appellant's second appeal against the concurrent findings of both the Courts below whereby the suit for permanent injunction filed by the plaintiff-respondents for restraining the defendant-appellant from interfering into peaceful possession of the plaintiffs and further to dispossess the plaintiffs forcibly and illegally from the house measuring 7 marlas as detailed in the opening paragraph of the judgment of the trial Court dated 14.07.2017, on the basis of jamabandi for the year 2008-09, was decreed by both the Courts below.

It has been found that the plaintiff-respondents are living in the house in question since long. The suit property had devolved upon the plaintiffs through sale deeds dated 15.01.2014 Ex. PX and 14.03.2013 Ex. PY. It was, therefore, found that the plaintiffs have purchased the suit property for a valuable consideration. It is important to note that the



defendant-appellant had never challenged the abovesaid sale deeds Ex. PX and PY. Furthermore, the appellant-defendant as DW-1 had admitted during his cross-examination that as per the said sale deeds Ex. PX and PY, mutation of the suit property was also entered and sanctioned in favour of the plaintiff-respondents as owners in the revenue records. Further, it was also admitted by the defendant-appellant in his cross-examination that he had not filed any suit before any competent authority for setting aside the aforesaid sale deeds and mutation till date.

In appeal, the learned lower Appellate Court, had found that the defendant-appellant had failed to prove his averments at all and even also failed to prove his possession over the suit property; and that Jamabandi for the year 2008-09 Ex. P-1 establishes the possession of the plaintiffs over the suit property; and that the defendant-appellant had never challenged the sale deeds Exs. PX and PY.

Learned counsel appearing for the appellant *prima facie* is not able to show anything on record whatsoever to this Court to controvert the concurrent findings recorded by both the Courts below.

In view the above, the instant regular second appeal, being meritless, is **dismissed**.

Pending application(s), if any, shall also stand disposed of.

15.01.2025
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**