



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA-2208-2025 (O&M)

Date of Decision.:03.07.2025

Raj Bala and Others

.....Appellants

Vs.

Parmanand and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. J.S. Dhaliwal, Advocate
for the appellants.

DEEPAK GUPTA, J. (ORAL)

This Regular Second Appeal has been filed by contesting defendant Nos.1 to 3 against the concurrent findings of the courts below.

2. Khema @ Khem Chand was the owner of a residential property situated in old abadi of village Jatoli, Haily Mandi, Tehsil Pataudi, District Gurugram as detailed in the plaint, having purchased it by virtue of a registered sale deed bearing Vasika No.117 dated 26.09.1955 (Ex.P1); and as shown by letters 'ABCD' in the enclosed site plan. Said Khema has since expired. Plaintiffs (*respondent Nos.1 to 5 herein*) and proforma defendants (*respondent Nos.6 to 10 herein*) are legal heirs of deceased Khema. Suit was brought by the plaintiffs contending that during his lifetime, Khema @ Khem Chand had allowed one Munshi Ram to reside in the rear portion measuring 33 ft. x 31 ft. of the above said property, consisting of two rooms and two tin sheds besides the latrine as shown in red colour by letter 'ABEF' in the site plan, as a licensee on the condition that as soon as Munshi Ram constructs his shelter on the plot measuring 3 Marla comprised in Khasra No.130//13/1/16 (o-3) allotted to him by the Government/Panchayat being



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a landless labourer, he will hand over the vacant possession of the abovesaid portion i.e. 'ABEF' to Khema. Munshi Ram died in 1994-95 and disputed portion continued to be occupied by his widow Smt. Chameli Devi and after her death in 2008-09, contesting defendants i.e. appellants herein are possessing the same. Though the said defendants raised construction of the house on their own plot, but they did not vacate the disputed portion of the property belonging to the plaintiffs and rather, started asserting ownership of the same on the basis of forged and fictitious municipal record. Plaintiffs terminated the licence of the defendants in March, 2011 and asked them to hand over the vacant possession of the disputed portion but they refused, compelling the plaintiffs to file the suit seeking a decree of declaration with consequential relief of mandatory injunction.

3. Defendant Nos.1 to 3 i.e. appellants contested the suit by pleading title to the disputed property by way of adverse possession.

4. Necessary issues were framed. Evidence produced by the parties was taken on record. Trial Court found that plaintiffs were owner of the property in dispute and as such, decreed the suit with direction to defendant Nos.1 to 3- appellants to hand over the vacant possession of the rear portion of the suit property shown by letter 'ABEF' in the site plan (Ex.P2) to the plaintiffs. However, the relief of mesne profit claimed by the plaintiffs was declined. The said judgment dated 23.11.2019 passed by the trial Court was affirmed by the first Appellate Court vide judgment dated 24.03.2025, while dismissing the appeal of defendant Nos.1 to 3- appellants.

5. Assailing the aforesaid concurrent findings, it is contended by learned counsel that possession of the appellants on the property in dispute is well proved on record and therefore, they are entitled to protection having become owner thereof by way of adverse possession.



6. This Court has considered submissions of learned counsel for the appellants and find no merit therein.

7. It is conceded by learned counsel for the appellants that as per the evidence on record, it is Khema, the predecessor-in-interest of the plaintiffs, who had purchased the total property as shown by letters 'ABCD' in the site plan (Ex.P2) by virtue of sale deed dated 26.09.1955 (Ex.P1) from one Birbal son of Sahab Ram. Jamabandis (Ex.P8 to P15), Khasra Girdawries (Ex.P16 to P.26) and other revenue documents further supported the case of the plaintiffs in this regard. The mere fact that defendants- appellants claimed title by adverse possession clearly indicated that they admitted the fact that plaintiffs/their predecessor was the title holder of the property. Defendants- appellants failed to plead the necessary ingredient to make out a case of adverse possession.

8. As has been observed by the first Appellate Court, even the witnesses examined by the defendants- appellants admitted that it is Khem Chand, the predecessor-in-interest of the plaintiffs, who had purchased the suit property. It has also been proved on record that Munshi Ram, the predecessor of the appellants- contesting defendants had been allotted a plot of 100 sq. ft. allotted by the Panchayat and the same is still in their possession and which is different from the property in dispute. Smt. Raj Bala, one of the contesting defendants examined as DW-4 made contradictory statements, inasmuch as she claimed that suit property was purchased by her father-in-law Munshi Ram from Birbal but in later part of examination, she admits that in 1955, it is Khema who had purchased the suit property. She tried to explain that Khema along with Munshi Ram had purchased the suit property jointly but concedes that there is no sale deed in favour of Munshi Ram.

9. Having regard to all the aforesaid facts and circumstances and



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the evidence produced on record, both the Courts have recorded concurrent findings to the effect that it is the plaintiffs (*respondents herein*) who are the owner of the property in dispute and that contesting defendants- appellants failed to prove the stand taken by them.

10. This Court does not find any ground whatsoever to interfere in the well-reasoned concurrent findings of facts as recorded by the Courts below, which are based upon proper appreciation of evidence on record. As such, holding the present appeal to be devoid of any merit, same is hereby dismissed.

Miscellaneous application (s), if any, stand disposed of.

(DEEPAK GUPTA)
JUDGE

July 03, 2025

Neetika Tuteja

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