

RSA 195/ 98

31.12.2008 Present :Mr. R.K.Gautam, Advocate for the appellant.

Mr.P.K.Sharma, Addl.Advocate General for the respondent.

The present RSA has been directed against the impugned order dated 19.12. 1997 of learned District Judge, Solan passed in Civil Appeal No. 80-NL/13 of 1996, whereby the above mentioned appeal was dismissed . The said Civil Appeal was preferred before District Judge by the present appellant against the judgment and decree dated 26.8.1996 passed in Civil Suit No. 141/1 of 1998 by the learned Sub Judge Ist class , Nanagarh, whereby the suit of plaintiff/ appellant claiming that he had become owner by way of adverse possession qua the suit land Khewat Khatuni No.255/346 min village Dhang-Nihili, Tehsil Nalagarh, was dismissed . The appellant/ petitioner was proceeded and ordered to be evicted from the suit land vide order dated 22.1. 1993 of Assistant Collector, Nalagarh. The eviction proceedings were later on confirmed by the Collector vide order dated on 17.3. 1993 , which however was challenged by the appellant/ petitioner on the ground that appellant has become owner by adverse possession of the suit land as he was in possession the same peacefully, uninterruptedly and in continuity .

The suit was tried by the learned trial court on the basis of the documents, pleadings and material available on record and following issues were framed :

- 1 Whether the plaintiff is owner in possession of the suit land as alleged ? OPP .
2. Whether the revenue entries are wrong and illegal and not binding the plaintiff ? OPP
3. Whether the order of AG-IIInd grade dated 22.1. 1993 and 17.1.1993 are wrong , illegal null and void ? OPP.
4. Whether the plaintiff is entitled for the permanent injunction as prayed ? OPP

5. Whether the suit is bad for want of notice under Section 80 CPP ? OPD
6. Whether the plaintiff has no cause of action ? OPD
7. Whether this court has no jurisdiction ? OPD
8. Relief .

The learned trial court after adjudicating the suit , had decided issues No.1 to 5 in negative and issues No, 6 and 7 in positive and thereafter vide 26.8. 1996 dismissed suit in question .While adjudicating Civil Appeal No.80-NL/ 13, learned District Judge confirmed the verdict of the learned trial court .

After hearing the learned counsel for the parties and going through the record I am of the considered view that the findings given by Learned District Judge , is legally correct , as it is well settled that right of the appellant cannot be strengthened regarding his ownership by adverse possession over the government land . I am of the considered view that there is no substantial question of law involved as required under section 100 of CPC, more so concurrent findings of both the courts below cannot be upset.

The appeal is accordingly dismissed .

(R.B.Misra)J.

December 31, 2008
nbj