

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 3873 of 2005
Date of decision: 29.8.2008

Wassan Singh

Appellant

v.

Kulwant Kaur and another

Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Parveen Kumar, Advocate for the appellant.

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Rajesh Bindal J.

The defendant is in appeal before this Court against the concurrent findings of fact recorded by the courts below, whereby suit for possession filed by the respondents-plaintiffs was decreed.

The claim of the respondents-plaintiffs is that earlier Bachan Singh- husband of respondent No.1 and father of respondent No.2 was owner in possession of the property, who expired leaving behind the plaintiffs who inherited the property. Earlier Bachan Singh filed a suit for permanent injunction against the appellant-defendant. During the pendency of appeal, Bachan Singh expired and the appellant-defendant took forcible possession of the suit property. He is claiming to be in possession of the property on the basis of agreement to sell dated 19.5.1988 executed by Mangat Singh and Kultar Singh in his favour, in terms of which he claims that the property in question was purchased by him on payment of Rs. 13,000/-. After the death of Bachan Singh, earlier appeal and suit were withdrawn by the respondents-plaintiffs.

In the present suit for possession filed by the respondents, it had come on record by way of statement of the appellant-defendant himself that Bachan Singh was the owner of the property. To similar effect was the statement of Harbhajan Singh-D.W.2, who admitted this fact in his cross-examination. If he was the owner of the property, there was no question of sale thereof by Mangat Singh and Kultar Singh, as is claimed by the appellant-defendant. The agreement to sell, which was executed on

19.5.1988, was not given effect to as such. Admittedly, no sale deed had been executed in favour of the appellant-defendant till date.

The findings of fact by both the courts below in the present appeal have been recorded on the basis of admission made by the appellant-defendant which cannot be held to be perverse.

No question of law, much less a substantial question of law arises in the present appeal.

Accordingly, the appeal is dismissed.

(Rajesh Bindal)
Judge

29.8.2008
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