

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR
BENCH JAIPUR

ORDER

S.B. CIVIL SECOND APPEAL NO.542/2010
(Sadhu Ram & Ors. Vs. Ramesh Kumar & Ors.)

Date of Order : **30.09.2013**

HON'BLE MR. JUSTICE ALOK SHARMA

Mr. Prem Kumar Sharma, for the appellants.
Mr. K.R. Sharma, for respondent Nos.5 to 7.

BY THE COURT

This second appeal under Section 100 CPC has been filed by the appellants-plaintiffs (hereinafter 'the plaintiffs') aggrieved of the dismissal of their suit for permanent injunction by the trial court as also the first appellate court by their judgments and decrees dated 31.05.2008 & 20.07.2010, respectively.

Heard the counsel for the parties and perused the impugned judgments and decrees passed by the courts below.

The courts below have concurrently found that the evidence laid by the plaintiffs before the trial court was not sufficient to establish their possession of the suit property and consequently no permanent injunction as sought could be granted on the first principle of law that for seeking a permanent injunction, the plaintiff has to be in possession of the disputed property. Contrarily, the trial court found from the evidence on

record that the respondent Nos.5, 6 & 7, the purchaser of the property by a registered sale-deed dated 15.06.2002, were in possession. Further it was also evident from the facts of the case and evidence on record that the plaintiffs were not the owners of the property. In the overall state of evidence on record, the plaintiffs' suit for injunction simplicitor has thus been rightly dismissed by the two courts below. In my considered opinion, no substantial question of law arises in this second appeal for the consideration of this Court in the exercise of limited jurisdiction under Section 100 CPC.

Consequently, there is no force in the second appeal.
The same is dismissed.

(ALOK SHARMA), J

MS/-

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.-
Manoj Solanki, Jr. P.A.

सत्यमेव जयते