

[2024 LiveLaw \(SC\) 82](#)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

PAMIDIGHANTAM SRI NARASIMHA; J., ARAVIND KUMAR; J.

CIVIL APPEAL NOS. OF 2024 (@ SLP (C) Nos. 26614-26615 of 2016) JANUARY 29, 2024
IDU THROUGH LRS. & ORS. versus NIZAM DIN (D) THROUGH LRS.

Adverse Possession - Declaration of title can be sought based on adverse possession. (Para 5)

(Arising out of impugned final judgment and order dated 05-12-2014 in RSA No. 1626/1987 02-05-2016 in RA No. 8/2015 02-05-2016 in RSA No. 1626/1987 passed by the High Court of Punjab & Haryana at Chandigarh)

For Petitioner(s) Mr. P. N. Puri, AOR Mr. P N Puri, Adv. Mrs. Reeta Dewan Puri, Adv. Mr. Abhishek Puri, Adv.

For Respondent(s) Mr. Arvinder Singh, Adv. Mr. Vibhuti Sushant Gupta, Adv. Mr. Narender Kumar Verma, AOR Mr. Rajat Sharma, Adv. Mr. Dinesh Verma, Adv. Mr. Subhasish Bhowmick, AOR

ORDER

1. Leave granted.
2. The appellant(s) filed a suit for title and injunction on the basis of two sale deeds and also pleaded adverse possession with respect to the suit schedule property. The Trial Court as well as the Appellate Court have concurrently held that the appellant(s) was in adverse possession of the suit schedule property.
3. In the second appeal filed by the respondent(s), the High Court after referring to the facts of the case, allowed the appeal by giving the only reason. That is, the plaintiff cannot maintain a suit for adverse possession.

“Both the courts below have discarded the title of both the parties on the basis of sale deeds in view of findings recorded under Issue No. 6, but decreed the suit of the plaintiff solely on the plea of adverse possession for which there is no justifiable reasons shown in terms of necessary ingredients as well as maintainability of the suit itself.

Resultantly, this court finds that a suit for declaration, on the basis of adverse possession, is not maintainable. This plea is not available to the plaintiff rather this plea is available to the defendant against the plaintiff. This legal proposition if read in conjunction with missing ingredients of adverse possession, make this court to hold that the suit of the plaintiff itself is not maintainable. Therefore, the impugned judgments and decrees passed by the courts below are liable to be set aside. Consequently, the same are set aside. The appeal is allowed and the suit itself is dismissed leaving both the parties to bear their own costs.”

4. It is evident from the above that the High Court allowed the second appeal only on the ground that a plea of the adverse possession cannot be taken by the plaintiff. Even the review application filed by the appellant(s) came to be dismissed on 02.05.2016.
5. This Court in ***Ravinder Kaur Grewal vs. Manjit Kaur; 2019 (8) SCC 729*** settled the law and laid down the principle that a plaintiff can seek declaration of title by adverse possession.
6. In view of the fact that the issue is covered by the judgment of this Court, we set aside the judgment and order of the High Court in RSA No. 1626 of 1987 and Review Application No. 8-C of 2015 dated 05.12.2014 and 02.05.2016 respectively and allow the appeals.
7. Pending application(s), if any, shall stand disposed of.
8. There shall be no order as to costs.