



RSA-3048-2000 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**RSA-3048-2000 (O&M)
Reserved on:-14.10.2025
Date of Decision : 27.10.2025**

Sahib Singh

....Appellant

VERSUS

Tejpal Singh (Since deceased) through LRs and Another

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Vipin Mahajan, Advocate and
Ms. Gagan Bir Kaur, Advocate for the appellant.

Ms. Meena Bansal, Advocate
For legal representatives of respondent No.1.

Respondent No.5 is stated to have died.

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MANDEEP PANNU, J.

1. The appellant-plaintiff, Sahib Singh, has preferred the present Regular Second Appeal against the concurrent findings of fact recorded by both the Courts below whereby his suit for permanent injunction restraining the respondent-defendant, Tej Pal Singh, from interfering in his possession or dispossessing him from the plot marked as ABCD, situated in village Faizpura, was dismissed.

2. The suit was instituted on 18.07.1994, dismissed by the learned trial Court vide judgment and decree dated 18.01.1997, and the appeal preferred by the plaintiff before the learned First Appellate Court was dismissed vide judgment and decree dated 28.10.1999.

Brief Facts

3. Briefly stated, the case of the plaintiff is that he is in actual and physical possession of the suit plot marked as ABCD as per the site plan attached



with the plaint. He has raised a boundary wall around it and sown jawar crop and that the defendant, who had been residing in Bombay for the last 20 years, recently visited the village and threatened to dispossess him without due process of law. It is further pleaded that an earlier suit filed by the plaintiff against the defendant before Shri Hukam Chand, Sub Judge Ist Class, Batala, had been withdrawn on the assurance of the defendant that the plaintiff would not be dispossessed. The plaintiff alleges that the defendant again attempted to interfere with his possession, compelling him to file the present suit for permanent injunction.

4. The defendant—Tej Pal Singh, in his written statement, took preliminary objections regarding the maintainability of the suit, improper description of the property, and lack of cause of action. On merits, it was pleaded that the plaintiff is an illegal occupant and that the suit land was owned by one Mohan Singh son of Natha Singh, who had sold land measuring 3 kanals comprised in Khasra No. 12/16/1/1 to the defendant vide registered sale deed dated 15.05.1974 for consideration of ₹13,300/-. It was further pleaded that the defendant has been in ownership and possession of the suit land since the date of purchase and had raised boundary wall in May/June 1994. The plaintiff, according to the defendant, has illegally trespassed into the property taking advantage of his absence.

5. From the pleadings of the parties, the following issues were framed:

1. Whether the plaintiff is entitled to the injunction prayed for?

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2. Relief.

6. In support of his case, the plaintiff examined PW1 Satish Chander, Draftsman, who proved the site plan (Ex. P-1). PW2 Barkat Masih, Draftsman, who deposed that the plaintiff had been in possession of the plot for 9–10 years.



PW3 Mohinder Singh, who also deposed that the plaintiff was in possession for 8 years and had raised a boundary wall. Himself as PW4 and admitted in his cross-examination that the defendant had purchased the suit plot from Mohan Singh vide registered sale deed (Ex.D-1), and that he entered into an oral agreement to sell with the defendant but no date, year, or consideration was stated or pleaded.

7. On the other hand, the defendant produced a photocopy of the sale deed executed in his favour by Mohan Singh, which the plaintiff admitted in his testimony.

Findings of the Trial Court

8. The learned trial Court, after analyzing the pleadings and evidence, held that the plaintiff himself admitted that the defendant had purchased the property from Mohan Singh, and thus ownership of the defendant stands proved. The alleged oral agreement to sell pleaded by the plaintiff is vague, without date, consideration, or proof. The plaintiff's entry into possession was unauthorized and without any lawful right; he had trespassed upon the property taking advantage of the defendant's absence. Relying upon the judgment of the Hon'ble Supreme Court in *Premji Ratansey Shah & Ors. v. Union of India & Ors., 1994 (5) SCC 547*, it was held that a trespasser is not entitled to an injunction against the true owner. Accordingly, the suit was dismissed.

Findings of the First Appellate Court

9. On appeal, the learned First Appellate Court reappraised the pleadings and evidence and concurred with the findings of the trial Court. It was held that the plea of the plaintiff that the defendant had admitted his possession was misconceived. When read as a whole, the written statement clearly denied the plaintiff's possession over the plot. The ownership of the defendant stands admitted by the plaintiff himself in his testimony. The plaintiff, being a



trespasser, is not entitled to equitable relief of injunction. Reliance was again placed upon *Premji Ratansey Shah (supra) and Om Parkash v. State of Haryana, 1998 (3) CCC 404 (P&H)*, to hold that no injunction can be granted in favour of a person in unlawful possession. Accordingly, the appeal was dismissed.

10. Aggrieved by the concurrent findings of the Courts below, the appellant has preferred the present appeal, which upon notice is contested by the legal representatives of respondent No.1.

Submissions of learned counsel for the parties

11. Learned counsel for the appellant/plaintiff contended that both the Courts below erred in law and on facts in dismissing the suit. It was argued that the respondent/defendant had admitted the possession of the appellant in the preliminary objections of his written statement, and therefore, the suit for injunction ought to have been decreed. It was further contended that the alleged sale deed in favour of the defendant was not proved according to law and that the findings of both courts are perverse. Counsel also referred to the order passed by this Court on 02.09.2003 at the time of admission of the present RSA, whereby the appellant was protected from dispossession “except in due course of law,” arguing that such interim protection implied recognition of his possession.

12. On the other hand, learned counsel appearing on behalf of legal representatives of respondent No.1 supported the judgments of both the courts below and contended that the plaintiff, having admitted the ownership of the defendant, cannot seek injunction against the true owner. The plaintiff entered into possession unlawfully, without any valid agreement to sell or document of title. A trespasser cannot claim equity in his favour. The concurrent findings are based on proper appreciation of evidence and settled law and call for no interference.

**Findings of this Court**

13. After hearing learned counsel for the parties and perusing the record, this Court finds no merit in the appeal. The plaintiff's own testimony admits the ownership of the defendant. Once the plaintiff admitted that Tejpal Singh had purchased the land from Mohan Singh through a registered sale deed, the title of the defendant stood established. The plea of oral agreement to sell is vague, unsubstantiated, and devoid of particulars, thereby lacking evidentiary value.

14. The Courts below have correctly held that the possession of the plaintiff was trespassory. A person in unlawful occupation cannot seek an injunction to protect his illegal possession against the lawful owner. The law laid down in *Premji Ratansey Shah v. Union of India (1994) 5 SCC 547* and *Om Parkash v. State of Haryana (1998) 3 CCC 404 (P&H)* squarely applies to the facts of this case.

15. The interim order dated 02.09.2003 passed by this Court only restrained dispossession except in due course of law. Such an order is procedural in nature and cannot confer ownership or tenancy rights upon the appellant. It only prevents forcible eviction without following the due legal process.

16. There is no perversity, illegality, or misreading of evidence by either court below. The concurrent findings are well reasoned and based on correct appreciation of law.

Conclusion

17. In view of the foregoing discussion, it is held that the plaintiff-appellant Sahib Singh is a trespasser in the suit property. No injunction can be granted against the true owner to protect unlawful possession. The concurrent findings of the trial Court and the First Appellate Court suffer from no legal infirmity.



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18. Accordingly, the present Regular Second Appeal is dismissed. The judgments and decrees dated 18.01.1997 and 28.10.1999 passed by the Courts below are affirmed.

19. Pending application(s), if any, also stands disposed of.

October 27, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No.