

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

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Regular Second Appeal No.4409 of 2012 (O&M)
Date of Decision: September 17, 2015

Lachhman Singh alias Lachhman Ram

...Appellant

Versus

Pal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Arora, Advocate
for the applicant-appellant.

Mr. Ramesh Sharma, Advocate
for caveators-respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

A suit for permanent injunction restraining the respondents-defendants from interfering in the peaceful possession and enjoyment of the appellant-plaintiff of the house/land in question, the details of which were given in the head note of the suit, situated in village Nawan Pind Khalewal, Tehsil Shahkot, District Jalandhar, stands dismissed by the Additional Civil Judge (Senior Division), Nakodar, on 02.02.2009. Against which the appeal preferred by the appellant-plaintiff has been dismissed by the Additional District Judge, Jalandhar, on 06.08.2012 holding therein that the appellant-plaintiff has not been able to prove any construction on the land or that the land was in his possession.

2. As a matter of fact, his own witness PW-2 Gurpal Singh has not supported the version of the appellant-plaintiff as in his cross-examination he admitted that there is no electric meter in the disputed property and he also stated that the residential houses of the brothers of the appellant-plaintiff are on the western side of the road and that Lachhman Singh

appellant-plaintiff and his brothers have been residing in the village for the last 40 years and they have since been residing in these houses. On the contrary, the stand of the respondent is that the land in question is reserved for a *gairmumkin* mandir and in fact a *thara* has been constructed where there is a flag also and the land is of the Balmiki Mandir. Relying upon the evidence led by the parties, the Courts below on appreciation thereof, have come to the conclusion that the suit of the appellant-plaintiff deserves dismissal and have ordered accordingly.

3. It is the contention of learned counsel for the appellant-plaintiff that the findings recorded by the Courts below cannot sustain as the area/land in question was handed over to him for construction of residential house by the Sarpanch of the village i.e. late Shri Inder Singh. He had constructed a residential house thereon and since then he is in possession thereof for the last 22 years. He thus contends that since there is a residential house wherein he is residing, the findings recorded by the Courts below cannot sustain.

4. On the other hand, learned counsel for the caveators/respondents-defendants states that the Courts below have gone into this aspect and having found no evidence in support of assertion of the appellant-plaintiff, proceeded to dismiss the suit of the appellant-plaintiff, specially when he has not been able to show any construction on the land which would indicate it to be a house and even if he had asserted that the construction which has been raised by him had been demolished, no evidence to that effect was produced. He thus contends that the documentary and oral evidence which has been produced on record by the respondents-defendants amply prove that it was a land earmarked for a

gairmumkin mandir in the revenue records and a *thara* had been constructed and there was a flag also put therein by the Balmiki community wherein the Balmiki Mandir is proposed to be constructed. He thus contends that the appeal deserves dismissal.

5. Having considered the submissions made by counsel for the parties, I am of the considered view that the judgments and decree passed by the Courts below is based on proper appreciation of the evidence which has been led by the parties and, therefore, do not call for any interference, specially when PW-2 Gural Singh, who is a witness of the appellant-plaintiff himself has in his cross-examination brought out the truth that there is no house constructed on the land in dispute and rather the house where the appellant-plaintiff is residing is on the western side along with houses of his brothers.

6. In view of the above, the findings recorded by the Courts below do not call for any interference, specially when the stand of the respondents-defendants is duly supported by the revenue record brought on record.

7. Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

8. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

9. In the light of the dismissal of the appeal itself, the application for stay i.e. CM No.12277-C of 2012, also stands disposed of as infructuous.

September 17, 2015

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Puneet