

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

RSA-923-2012

Date of decision-23.09.2015

SATYAVEER PRASAD

...Appellant

VS

RAJIV AND ORS

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. Atul Yadav, Advocate
for the appellant.

RAJ MOHAN SINGH, J. (Oral)

Plaintiff is in appeal despite grant of decree of permanent injunction in his favour by both the Courts. This appeal has been filed by the plaintiff against the judgment of Lower Appellate Court, dismissing cross-objections filed by the plaintiff and not granting decree for mandatory injunction. 444 square yards of land comprised in khasra No.651 (7-51) was allotted by the Punjab Wakf Board on 20.11.1970 in favour of the plaintiff-appellant. On 14.08.1972, permission was accorded to the plaintiff and thereafter, he constructed the site in question. He claimed the lease rights under the Punjab Wakf Board for a period of 99 years. The suit for permanent injunction as well as mandatory injunction was filed by the plaintiff with the allegations that on 24.12.1998, defendant demolished wall DE and caused blockade in sanitation system and also installed an electric motor. Defendant has also constructed tin shed in north portion at the back of the house of the plaintiff and has also closed door BE in the wall forcibly.

The defendants have contested the suit by claiming that defendants No.2 and 3 are bona fide purchaser of 2/31 share of khewat No.451, khasra No.651 (7-15) vide registering sale deed dated 02.12.1998 for consideration of Rs.10 lacs from one Jumma Khan.

Trial Court disbelieved the story of purchasing land by the defendant from Jumma Khan on the ground that neither the attesting witnesses to the sale deed have been produced, nor scribe has testified factum of scribing sale deed. Apparently, in view of evidence Exhibits PW1/4 and PW 1/5 property in question is owned by Punjab Wakf Board. In view of aforesaid Jumma Khan was not held entitled to sell the property in question to defendants No.2 and 3. However, in view of evidence Exhibit PW1/5, Jumma Khan has been shown to be one of the co-lessee under Punjab Wakf Board, therefore, defendants No.2 and 3 are held to have derived possessory right from Jumma Khan and the alleged encroachment made by the defendants have been brought out of the purview of suit for mandatory injunction. The cross-objections filed by the appellant before Lower Appellate Court have been held to be having no worth in view of permissive possession of the defendants No.2 and 3 over the land in question to the extent of land which was possessed by Jumma Khan. No demarcation has been contended in order to demarcate specific portions of the plaintiff vis-a-vis the defendants in sale deed of khasra No.651 which is owned by Punjab Wakf Board and both the parties have derived their possessory rights. No law point worth consideration is involved. Hence, this appeal is dismissed.

September 23, 2015

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**(RAJ MOHAN SINGH)
JUDGE**