

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 3400 of 2013 (O&M)
Date of decision:- 10.03.2015

Gurdev Singh

...Appellant

Versus

Satpal Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. G.S. Nagra, Advocate
for the appellant.

RITU BAHRI J. (Oral)

This regular second appeal is against the judgment and decree dated 02.05.2013 passed by learned Addl. District Judge, Amritsar, whereby the appeal filed by the appellant was dismissed, which was against the judgment and decree dated 10.09.2012 passed by learned Civil Judge (Sr. Divn.) Ajnala whereby the appellant withdrawn the suit on 11.05.2010 but the trial Court proceeded on the counter claim filed and dismissed the suit of the appellant.

The appellant filed a suit for permanent injunction restraining the defendants or their agents from dispossessing the plaintiff forcibly, illegally and from interfering into the peaceful possession of the plaintiff from the land measuring 20 kanals 9 marlas bearing khasra No. s

41//19 (8-0), 23/2 (4-11), 24/2 (2-18), 24/1 (5-0) Khata Khatoni No. 208/745, 747, as entered in the jamabandi for the year 2004-05 situated at village Tere Rajputan, Tehsil Ajnala, Distt. Amritsar.

The defendants being owners of the suit property, executed a mortgage deed for a sum of Rs.2,35,000/- for the land measuring 20 kanal 9 marlas ie. 409/2753 share out of the total joint khata of the land measuring 137 kanals 13 marlas and they delivered the possession of the suit land at the time of mortgage and since then, the plaintiff is in actual physical possession of the suit land as mortgage. The defendants contested the suit by filing written statement taking preliminary objections on the ground of maintainability. The defendants filed a counter claim and sought the relief of declaration to the effect that the mortgage deed regarding land measuring 20 kanals 9 marlas, as alleged by the plaintiff is forged, fabricated, null and void and is a result of misrepresentation and impersonation. The plaintiff withdrew the suit and the trial Court proceeded on the counter claim filed by the defendants and dismissed the suit of the appellant with the declaration that the mortgage deed dated 13.02.2003 is not binding upon the rights of the defendants/counter claimants being null and void and the plaintiff were restrained from

interfering into peaceful possession of the counter claimants/defendants to the extent of their share in the joint khata, except in due course of law.

A perusal of the judgments shows that no attempt was made by the present appellant to lead any evidence in the counter claim filed by the defendants.

Keeping in view the fact that the suit was withdrawn by the appellant, the judgments passed by both the Courts below, calls for no interference. No substantial question of law arises for adjudication by this Court.

Accordingly, R.S.A is dismissed

March 10, 2015
G Arora

(RITU BAHRI)
JUDGE