

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

DATE OF DECISION: AUGUST 31, 2015

Bahadar Singh

.....Appellant

VERSUS

Jugraj Singh and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Ms. Mansi Bansal, Advocate for
Mr. Manish Bansal, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Through this appeal, challenge is to the judgement and decree passed by the Civil Judge (Junior Division), Jalalabad (West), dated 04.02.2011, which has been affirmed by the Additional District Judge, Ferozepur by judgement and decree dated 20.03.2013, whereby the suit for permanent injunction, restraining the respondent-defendants from forcibly, illegally and unauthorizedly interfering in the peaceful possession of the appellant-plaintiff over the residential house measuring 2715 square feet, details whereof have been mentioned in the head note, stands dismissed.

It is the contention of counsel for the appellant-plaintiff that on the basis of family settlement, which has been entered into between the parties, which is in the form of a writing, Ex.P2, possession of the suit

property was delivered to the appellant-plaintiff. She contends that now the possession of the appellant-plaintiff was disturbed by the respondent-defendants, against which he had approached the Court by way of suit for permanent injunction. Since the writing, which was a family settlement, has been duly proved, the Courts should not have dismissed the suit and rather granted the decree as prayed for.

This contention of counsel for the appellant cannot be accepted in the light of the well reasoned and detailed consideration of this particular aspect by the Courts below, wherein it has been pointed out that the appellant-plaintiff was not residing in the village, rather was residing in the City of Muktsar. There is no documentary evidence on record to prove the possession of the appellant-plaintiff. The writing, Ex.P2, does not bear any date. As per the statement of PW4 Nathu Ram, who is a marginal witness to the document, he had visited the property about 25 years ago and thereafter he had never visited the place. Even in the pleadings i.e. in plaint or in the evidence so produced in support of the pleadings, the date of execution of the writing has not been mentioned. The writing, Ex.P2, describes the suit property as a plot whereas the present suit has been filed showing it as a constructed house. Nothing has come on record to show as to how the construction has taken place and who had constructed the house. The conclusions drawn and the reasons given by the Courts below for not accepting the submissions of the appellant-plaintiff are fully justified and based upon the pleadings and the evidence led by the parties.

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.

No substantial question of law is involved in the present appeal.

Therefore, finding no merit in the present appeal, the same stands dismissed.

August 31, 2015
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE