

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

RSA No. 4256 of 2013 (O&M)

Date of decision : 6.4.2015

Ramdei and others

..... Appellants

VS

Pala

..... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Ram Kumar Saini, Advocate, for the appellants.

Rajesh Bindal J.

The plaintiff having failed in both the Courts below, his LRs have filed the present appeal whereby his suit for permanent injunction seeking to protect his possession on the property in dispute was dismissed.

The plaintiff claimed that he is in possession of house measuring 72 square yards, situated within the abadi of village Chidana, Tehsil Gohana, District Sonapat. He is residing in the house for the last 30 years, the property being ancestral. As the respondent/ defendant was trying to dispossess the plaintiff from the property in dispute, the suit was filed.

The stand of the respondent/ defendant was that the suit property is part of the plot comprised in khasra no. 75/12/2, bearing khewat no. 988, khatauni no. 1104, measuring 0 kanal 3 marlas, situated within the revenue estate of village Chidana. The plaintiff had constructed his house on the adjoining portion of land and encroached a part of the suit land belonging to the respondent/ defendant. Counter claim was filed by the defendant seeking possession thereof.

In support of his case, the plaintiff produced site plan, Ex. P1, pertaining to the property which he claimed to be in his possession. The site plan was not proved by producing the draftsman, if any, who prepared the same and further as to whether the person, who prepared the same had

visited the spot before preparing the site plan. Except the aforesaid site plan, which could not be proved properly, the plaintiff did not lead any evidence to show his possession over the property in dispute. Even the demarcation of the property given by him was not correct. Definite stand of the respondent/defendant was that the suit property falls out of the abadi area and is identified by khasra number. The respondent/ defendant has been able to prove his ownership on the disputed land by producing jamabandi for the year 1999-2000 (Ex. D1) as *Gair mumkin plot*. They have also proved demarcation report dated 12.2.2011 (Ex. D3) showing that area of 15 square yards had been encroached upon by the plaintiff towards the northern side of the plot of the respondent/ defendant. The objection to the report was rejected by the Court while observing that at the time of preparation of the demarcation report, Ram Phal Khanungo had located three permanent points and the demarcation was carried out in the presence of the plaintiff.

With the aforesaid material on record, both the Courts below concurrently found that the plaintiff had not been able to prove his ownership or possession on the suit property, hence, was not entitled to the relief of permanent injunction, rather the respondent/ defendant has been able to prove that the plaintiff had encroached upon 15 square yards of land owned by him. His claim for possession to that extent was decreed.

Keeping in view the aforesaid material on record, wherein no evidence has either been misread or not considered by the Courts below, in my opinion, there is no infirmity in the judgments and decrees of the Courts below. No substantial question of law arises. The appeal is, accordingly, dismissed. Consequently, the accompanying applications are also dismissed.

6.4.2015
vs.

(Rajesh Bindal)
Judge