

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

**RSA No.108 of 2015 (O&M)
Date of decision: 14.01.2015**

Narender and another ... Appellants

Vs.

Som Dutt and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Shilak Ram Hooda, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

This regular second appeal is directed at the instance of plaintiffs/appellants No.1 and 2 against the judgment and decree of the trial Court as well as lower Appellate Court. The suit of the appellants-plaintiffs claiming permanent injunction against defendants-respondents seeking a restraint order against them from interfering into peaceful possession of the plot bearing No.67 having an area of 850 square yards depicted with letters CBEF in the site plan situated within the abadi deh of village Pai, Tehsil Kharkhoda, District Sonapat, illegally and forcibly has been dismissed by the trial Court, whereas the lower Appellate Court has given injunction protecting the possession of plaintiff No.1-Surender, as he was found to be in possession of the suit property. The lower Appellate Court has protected injunction till the partition.

Learned counsel for the appellants-plaintiffs submits that all the plaintiffs are in joint possession of the property in dispute. However, the

lower Appellate Court as well the trial Court had committed illegality and perversity in not examining the oral and documentary evidence particularly decree dated 31.07.1918 passed under Section 9 of the Specific Relief Act. Decree obtained by predecessor i.e. Khubi Ram son of Ganga i.e. grandfather of the plaintiffs. The trial Court dismissed the suit on the ground that appellants-plaintiffs failed to prove the identity of the property. Even PW-3, plaintiff was not able to give the description of the property much less length and breadth of the property in dispute. The lower Appellate Court after examining evidence found the plaintiff-Surender being in possession of the suit property i.e. constructed house on plot No.67 measuring 850 square yards and therefore, protected his possession till the partition. Lower Appellate Court did not grant injunction as the other plaintiffs failed to prove their possession over the property in dispute.

No fault can be found in the findings rendered by the lower Appellate Court.

There is no illegality much less perversity in the findings recorded by the Courts below.

No substantial question of law arises for adjudication of this appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 14, 2015
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