

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

**Regular Second Appeal No.2367 of 2015 (O&M)
Date of decision: 28.05.2015**

Sarabjeet Singh

.....Appellant

Versus

Paramjeet Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S. Thind, Advocate,
for the appellant.

Ritu Bahri, J.

Plaintiff-appellant has come up in regular second appeal against the judgments dated 26.02.2013 and 20.02.2015 passed by the Additional Civil Judge (Senior Division), Amritsar and Additional District Judge, Amritsar respectively, whereby his suit for permanent injunction restraining the defendants-respondents from interfering into his peaceful possession over the *haveli*, has been dismissed.

Sarabjeet Singh-plaintiff (appellant herein) claimed that his father, Madha Singh, was owner in possession of the suit property, which was being used as a *haveli*. The said property was situated in *lal lakir* (red line) of village Balia Manjpur, Tehsil and District Amritsar. After the death of his father, the plaintiff-appellant started using the suit property. Thereafter, he raised construction of one room for tethering cattle, one varandha, *burjis* etc. over the suit property, besides installing one *toka* machine and hand-pump.

He had also constructed a boundary wall and had installed one iron gate on

one side of the *haveli* in question. As per the plaintiff-appellant, the

defendants-respondents had threatened to dispossess him from the property in question.

Upon notice, the defendants-respondents filed written statement and took preliminary objections with regard to concealment of facts, suit bad for non joinder of necessary parties and locus standi. It was submitted that the plaintiff had affixed one gate in the middle of common street/path leading to the house of plaintiff as well as defendant Nos. 1 to 4. In that regard, defendants had made a complaint against plaintiff-Sarabjit Singh, Gian Singh and Surjan Singh to the Block Development Panchayat Officer, Jandiala Guru, Amritsar, whereupon, one Social Study and Panchayat Officer inspected the spot on 22.05.2006 and gave a report to the effect that the street in question along with *Nali*/drain was a common path/gali leading to the houses of plaintiff and defendant Nos.1 to 4. The plaintiff along with Gian Singh and Surjan Singh had installed one iron gate in the street in question and blocked the way leading to the house of defendant Nos. 1 to 4. Pursuant to the said report, BDO, Jandiala Guru, Amritsar made a complaint to the SSP, Majitha to provide police help to Sarpanch, Gram Panchayat of village Balia Manjpur and take necessary action against Sarabjit Singh-plaintiff, Gian Singh and Surjan Singh.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether plaintiff is entitled to permanent injunction for restraining the defendant from suit *haveli* as detailed in the site plan? OPP
2. Whether plaintiff has not approached the court with clean hands? OPD
3. Whether the suit is bad for mis joinder and non joinder of

necessary parties? OPD

4. Relief.

Trial Court, after going through the evidence led by the parties, dismissed the suit. Lower appellate Court affirmed the findings of the trial Court and dismissed the appeal.

Learned counsel for the appellant has vehemently argued that the land in dispute falling in red line of the village, belongs to the appellant and being in possession of the said land, he has become owner thereof.

Plaintiff-appellant has relied upon two site plans, one as Mark 'X' and the other as Ex.P1. As per the site plan (Ex.D1) relied upon by the defendants-respondents, a gate had been installed by the plaintiff-appellant in the *gali*/street in question. No revenue record was made available with respect to the property of the plaintiff-appellant as the same falls within *lal lakir* (red line) of the village. In the letter dated 22.05.2006 (Ex.DW1/A), which bears the signatures of BDPO, Jandiala Guru at point A, it has been clearly mentioned that Saranjit Singh, Gian Singh and Surjan Singh had installed iron gate in the *gali* owned by Village Panchayat and they had blocked access to the house of Chanan Singh. This fact was evident from the photographs (Ex.DX/1, Ex.DX/2 and Ex.DX/3), which have been admitted by plaintiff (PW5) to be pertaining to the property in question. The plaintiff-appellant could not rebut the document (Ex.DW1/A). He did not deny having received the said letter from the BDPO, Jandiala Guru, whereby he was asked to remove iron gate from the *gali*/street.

Both the Courts after going through the entire record have rightly come to a conclusion that the actual dispute between the parties was with respect to the southern side of iron gate, installed at point 'AB' as shown in

fact that he had received the letter dated 22.05.2006 (Ex.DW1/A) from BDPO, Jandiala Guru, whereby he was asked to remove the iron gate. He chose to rely on two different site plans, Mark 'X' and Ex.P1. As per the statement of Rohit Gupta, Draftsman (PW-3), he not only prepared two different site plans in favour of the plaintiff-appellant, but also prepared a site plan supporting the case of the defendants-respondents. The place shown as *gali* in site plan (Ex.D1), is said to be a private property of the plaintiff in the site plan (Ex.P1). Statement of Rohit Gupta (PW-3) was not accepted by both the Courts below.

Since the plaintiff-appellant has failed to lead any evidence to show that the *gali* outside his house where he had installed an iron gate, belongs to him, his suit for permanent injunction has been rightly dismissed by both the Courts below. No illegality, much less perversity, has been found in the impugned judgments warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

28.05.2015
ajp

(RITU BAHRI)
JUDGE