

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

**Regular Second Appeal No.2466 of 2015 (O&M)
Date of decision : 29.06.2015**

Rambir

....Appellant

versus

Jagdish and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vishal Nehra, Advocate,
for the appellant.

RITU BAHRI, J.

This appeal has been filed against the judgment dated 23.03.2015 passed by the Additional District Judge, Sonapat, dismissing the appeal filed by the plaintiff-appellant against the judgment and decree dated 13.09.2013 passed by the Additional Civil Judge (Senior Division), Gannaur, whereby his suit for permanent injunction, has been dismissed.

Rambir-plaintiff (appellant herein) filed a suit for permanent injunction against the defendants-respondents claiming that he was owner in possession of a plot measuring 215 Sq. yards, shown as ABCD in the site plan attached with the plaint, situated within the municipal limits of Ganaur, Tehsil Ganaur, District Sonapat. Out of the property in dispute, land measuring 81 Sq. yards had been received by the plaintiff from his father through a decree dated 18.03.2006 passed by the Additional Civil Judge (SD), Ganaur and the remaining land was in his possession since long. He

was using the suit land for preparing dung cakes, storing manure and fodder etc. As per plaintiff-appellant, the defendants-respondents wanted to grab the suit property. He requested them not to interfere in his peaceful possession over the suit property, but of no use.

Upon notice, defendant-respondents filed written statement and had taken preliminary objection with regard to maintainability of the suit. It was stated that neither the plaintiff-appellant got any land from his father vide decree dated 18.03.2006 nor he was owner of the suit property. Rather, the suit property was being used by the Municipal Committee.

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

1. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for qua the suit land? OPP
2. Whether the suit of the plaintiff is not maintainable in the present form? OPD
3. Whether the plaintiff has no cause of action to file the present suit? OPD
4. Relief.

Both the Courts have decided against the plaintiff-appellant. Hence, this appeal.

Before the lower Court, the plaintiff-appellant appeared in the witness box as PW-2. In his cross-examination, plaintiff had admitted that out of the suit property, he had got only 81 Sq. yards land from his father vide decree dated 18.03.2006 (Ex.P2). The remaining suit property was not in the name of his father and he was not having any proof of ownership qua the said land. After examining the judgment and decree dated 18.03.2006,

both the Courts below have come to a conclusion that the plaintiff-appellant was owner in possession of 81 Sq. yards of land, which was decreed in his favour. With regard to the remaining 134 Sq. yards, the suit of the plaintiff-appellant has been dismissed on account of the fact that by merely placing dung cakes or by tethering the cattle, he could not prove complete possession. Reference has been made to a judgment passed by this Court in **Dhoom Singh Vs. Bakshi Ram and others**, 1996 (3) PLR 541.

The lower appellate Court has further examined the deposition of Rambir-plaintiff (PW-2), whereby in his cross-examination, he had admitted that remaining 134 Sq. yards area was not under the ownership and possession of his father or grandfather. Once the possession has not been proved, the suit has been rightly dismissed.

After going through the judgments passed by both the Courts below, no irregularity, much less perversity, has been found therein warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

(RITU BAHRI)
JUDGE

29.06.2015

ajp