

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

**Regular Second Appeal No.2177 of 2014 (O&M)
Date of decision: 03.03.2015**

Chander Singh

.....Appellant

Versus

Manjeet and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Surender Deswal, Advocate,
for the appellant.

Ritu Bahri, J.

Plaintiff-appellant has come up in regular second appeal against the judgments of concurrent findings of fact recorded by both the Courts below i.e. Civil Judge (Junior Division), Rohtak and the Additional District Judge, Rohtak, whereby his suit has been dismissed.

Chander Singh-plaintiff (appellant) filed a suit for permanent injunction alleging that he is exclusive owner in possession of a plot situated within the *Abadi Deh* of village Dobh, Tehsil and District Rohtak. He has spent a huge amount in order to improve the quality of the said land and also constructed boundaries around the same. The defendants-respondents threatened to dispossess the plaintiff from the said property. Hence, he filed this suit.

Upon notice, defendant-respondents filed written statement and took a stand before the trial Court that the property in question was allotted to Hazari and Balwant (uncle of defendant Nos. 1 and 2) in case No.122,

which was decided on 15.03.1959. Thereafter, Hazari and Balwant executed a Will in favour of defendant Nos. 1 and 2 namely Jai Pal and Kapoor. After the death of Hazari and Balwant, defendant Nos. 1 and 2 became sole owners of the said property. They have constructed a boundary wall. There was a pond near the boundary wall. Gate of house of the plaintiff faces the suit property. As per the defendants, the suit property was being used by them for grazing cattle.

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

1. Whether the plaintiff is entitled to the decree of permanent injunction on the grounds as averred in the plaint? OPP
2. Whether the suit is not maintainable in the present form? OPD
3. Whether the plaintiff has no locus-standi to file the present suit? OPD
4. Whether the suit is bad for want of affixation of proper court fee? OPD
5. Relief.

The trial Court, after going through the evidence led by the parties, dismissed the suit. The lower appellate Court affirmed the findings recorded by the trial Court and dismissed the appeal.

The plaintiff-appellant led no evidence to prove his ownership and possession over the suit property. He had produced photocopy of site plan, *Khatoni* register and mutation, which were not attested by the concerned department. Further, the plaintiff had also failed to examine the architect of the site plan. Moreover, in his cross-examination, the plaintiff-appellant admitted that he had given up the possession over the suit land. The details

of the suit property, as mentioned in the site plan Ex.D3, does not tally with the suit property mentioned in the plaint. In his cross-examination, the plaintiff (PW-1) had admitted that in a partition proceeding before the Court with regard to *shamlat* land, the plot in dispute came to the share of Hazari and Balwant. In the absence of any evidence that the plaintiff-appellant was in possession of the suit property, both the Court below have rightly dismissed his suit.

Having examined the impugned judgments, no illegality, much less perversity has been found therein, warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

03.03.2015
ajp

(RITU BAHRI)
JUDGE