

In the High Court of Punjab and Haryana at Chandigarh

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R.S.A. No.4172 of 2014 (O&M)

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Date of decision:30.7.2015

Shamsher Singh

.....Appellant

v.

Randhir Singh and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Navneet Singh, Advocate for the appellant.

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Inderjit Singh, J.

This regular second appeal has been filed by Shamsher Singh -appellant/plaintiff against Randhir Singh, Parveen Kumar and Gram Panchayat, Village Nahri-respondents/defendants challenging the impugned judgment and decree dated 30.5.2014 passed by the learned Additional District Judge, Sonapat, vide which the appeal filed by the plaintiff against the impugned judgment and decree dated 27.7.2012 passed by the learned Additional Civil Judge (Senior Division), Sonapat, dismissing the suit of the plaintiff, has been dismissed.

The brief facts of the case are that plaintiff-Shamsher Singh filed suit for permanent injunction against Randhir Singh, Parveen Kumar and Gram Panchayat, Village Nahri. The case of the plaintiff was that he is owner in possession of 1/3rd share in land which was earlier owned by his

father, namely, Sahab Singh on the basis of family settlement. The plaintiff constructed three shops, four rooms, one hall room, one kitchen, stair case and boundary wall. There is also some vacant portion of land between the rooms and shops which was left by the plaintiff for his personal use. One Mange Ram filed a petition under Sections 4, 5 and 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (hereinafter referred to as 'the P.P. Act') against the father of the plaintiff for removing the encroachments. After ejectment proceedings, the plaintiff removed the western wall of the house and new western wall was constructed by him.

On the other hand, the case of defendants is that the plaintiff is not owner of 1/3rd share in the suit land. The other averments are also denied. The plaintiff has made a concocted story only to grab the land of the Gram Panchayat. Regarding construction also, the facts have been denied. It is further stated that actually the father of the plaintiff, namely, Sahab Singh had encroached upon Khasra No.400 Khata No.1069 Min. measuring 1 Kanal 9 Marla. Ejectment proceedings under Sections 4, 5 and 7 of the P.P. Act were initiated by Shri Mange Ram against the father of the plaintiff and the order of ejectment was passed against the father of the plaintiff on 20.5.2002. The appeal filed was also dismissed by the Commissioner Rohtak and in compliance of the order of ejectment, the possession of Rasta No.400 as per report of Local Commission was delivered to the Gram Panchayat. Father of the plaintiff and Sandeep had encroached upon Rasta No.400 which was got vacated in execution proceedings.

The learned Additional Civil Judge (Senior Division), Sonapat, after framing the issues and after the parties led the evidence, dismissed the suit of the plaintiff. Aggrieved from the judgment and decree, the plaintiff filed first appeal before the learned Additional District Judge, Sonapat, which was also dismissed vide judgment and decree dated 30.5.2014. Aggrieved from these judgments and decrees, the present regular second appeal has been filed.

At the time of arguments, learned counsel for the appellant argued that the findings given by the Courts below are perverse and not as per evidence.

I have heard learned counsel for the appellant and have gone through the record.

A perusal of the record shows that first of all no site plan has been filed along with the plaint. If no site plan has been filed as the property is stated to be constructed and there is some vacant portion of land left by the plaintiff for his personal use and the case of the defendants is that the plaintiff encroached upon the Rasta which was earlier got vacated through the proceedings filed against his father, I find that the suit property has not been properly described. It is settled law that the permanent injunction must be certain which can be enforced in case of violation. No vague injunction can be granted in favour of any party. Only on this ground the plaintiff is not entitled to injunction. The learned Courts below while reaching to the conclusion have also discussed the evidence in right perspective. The findings given by the Courts below are correct and as per

[4]

law. Nothing has been pointed as to which evidence has been misread by the Courts below. There is also nothing argued as to how the findings given by the Courts below are perverse. The findings given by the Courts below are concurrent, as per law which do not require any interference from this Court and the same are upheld. No substantial question of law arises in this regular second appeal.

Consequently, finding no merit in the regular second appeal, the same is dismissed.

July 30, 2015.

(Inderjit Singh)
Judge

hsp