

RSA No. 4802 of 2014 (O&M)

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

RSA No. 4802 of 2014 (O&M)

Date of Decision: December 14, 2015

Sarabjit Singh

...Appellant

Versus

Dalip Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Anil Chawla, Advocate
for the appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

Challenge in this appeal is to the judgment and decree passed by the Additional Civil Judge (Senior Division), Baba Bakala, District Amritsar, dated 27.09.2013, whereby, the suit for permanent injunction restraining the appellant-defendants from interfering in peaceful possession of the respondent-plaintiff or dispossessing him from the land as mentioned in the head note, situated in village Jabbowal, Tehsil Baba Bakala, District Amritsar, stands decreed and the appeal preferred against the same by the appellant-defendant has been dismissed by the Additional District Judge, Amritsar, on 23.01.2014, holding therein that the respondent-plaintiff is in possession of the land in dispute and he is entitled to injunction and can be evicted only in accordance with law, thus, granting the

injunction as prayed for.

It is the contention of the learned counsel for the appellant that the judgments and decree passed by the Courts below cannot be sustained in the light of the fact that the appellant-defendant is the real owner of the property and an injunction against owner of the property is not maintainable. His further contention is that the respondent-plaintiff himself admits that the appellant-defendant is the owner of the property and therefore, in the light of the admission of the respondent-plaintiff, the injunction as prayed for could not have been granted . He, thus, submits that the judgments and decree passed by the Courts below cannot sustain and the same be set aside.

I have considered the submissions made by the learned counsel for the appellant and with his able assistance have gone through the judgments and decree passed by the Courts below but do not find any illegality in the same as it is not in dispute that the possession over the suit property is in the hands of the respondent-plaintiff. In the light of the fact that the respondent-plaintiff is in possession of the property, the injunction as prayed for, has rightly been granted with liberty to the appellant-defendant to take possession in accordance with law. The judgments and decree passed by the Courts below cannot be said to be in any manner, not in accordance with law.

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A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below are based on proper appreciation of the pleadings and the evidence brought on record which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

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In view of the order passed in the main appeal, the present application for staying the operation of the impugned judgments and decree passed by the Courts below during the pendency of the appeal, has become infructuous.

Disposed of as such.

December 14, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**