

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

**Regular Second Appeal No.1489 of 2013 (O&M)
Date of Decision: July 26, 2016.**

Amrik Singh

.....APPELLANT(s).

VERSUS

Gurpreet Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vivek Goel, Advocate
for the appellant (s).

Mr. I.S. Brar, Advocate
for respondents No.1 to 6.

SURINDER GUPTA, J.

This is appeal by Amrik Singh against the judgment and decree passed by District Judge, Faridkot dismissing his suit seeking relief of permanent injunction to restrain defendants-respondents No.1 to 7 from interfering in his peaceful possession over the land measuring 37 kanals 4 marlas bearing khasra No.50(16-0), 51(21-4) having khatauni No.398/830, Khewat No.229/359min situated within the revenue estate of village Deep Singh Wala, Tehsil and District Faridkot. Appellant-plaintiff claims to be in possession of the suit land being a member of the Scheduled Castes Co-operative Agricultural Land Owning Society, Deep Singh Wala (later referred to as 'the Harijan Society') for the last 30-35 years. The plaintiff alleged that defendants-respondents No.1 to 7 were threatening to dispossess him from the suit land. Hence, this suit.

Learned Civil Judge (Senior Division), Faridkot decreed the

suit relying on the statement of plaintiff that he is in possession of the suit land. However, the first Appellate court accepted the appeal filed by defendants-respondents No.1 to 6 and dismissed the suit.

I have heard learned counsel for the parties and have perused the paper book and record of the Courts below with their assistance.

Admittedly, land in suit is owned by the Harijan Society. It is also not disputed that the plaintiff is the member of the Harijan Society. However, plaintiff did not produce any evidence to show that Harijan Society has allotted this land to him or he is in possession of the same. The Harijan Society has 102 members. In order to succeed in the suit, it was incumbent upon the plaintiff to place on record the resolution/allotment letter of the Harijan Society whereby he was allotted this land. Even if, he is having share in the total land of the Harijan Society measuring 556 killas, in the absence of any evidence that the Harijan Society has allotted him the suit land and he is in exclusive possession of the same, the relief of injunction could not be allowed to the appellant-plaintiff. Jamabandi Ex.P1 placed on record shows that possession over the land is of society and not of the plaintiff. Learned Civil Judge while allowing relief of injunction to the plaintiff has gone astray and has not even recorded the finding that the plaintiff has been allotted the suit land by the Harijan Society and is in exclusive possession of the same. Learned first Appellate Court, on appraisal of evidence on record, has observed in para 16 as follows:-

“16. On the contrary, the defendants have denied the plaintiff, to be in possession of the suit property and they claim themselves, to have come in possession of the land from Gurnam Singh and Channa Singh. Very true, as pointed out by the learned counsel for the respondent-

plaintiff No.1 that no evidence of any kind has been led by the defendants to substantiate their plea of being in possession of the suit land, but however, solely, on this account *ipso facto*, the claim of the plaintiff does not stand established. Since, it is the plaintiff Amrik Singh, who has come forward, to seek relief of injunction, onus lay upon him, to establish his clear and specific possession over the suit land. However, on appraisal of evidence coming on the record, to my mind, he has miserably failed to do so. Undisputedly, from the evidence brought on the record, it is amply established that *Harijan Society, Deep Singh Wala* is owner of khasra numbers 50 and 51, regarding which, present suit has been filed. The jamabandi coming on the record reveals the *Harijan* Society, to be in possession of the same. Even, from the record, proved by PW3 Sulakhan Singh, it is evident that Amrik Singh, son of Mohan Singh is member of the said society, but however, being member of the *Harijan* Society, itself does not establish the plaintiff, to be in possession of the suit land.”

Learned counsel for the appellant could not make out that the above observations of the first Appellate Court are based on misreading of evidence or any material evidence on record has either been ignored or wrongly appreciated, calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

July 26, 2016
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

√
Yes/No

Whether Reportable:

√
Yes/No