

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

**RSA No.2187 of 2016 (O&M)
Decided on: 03.05.2016**

Sarfraj Khan

....Appellant

Versus

Khan Mohammad and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Veneet Chaudhary, Advocate
for the appellant.

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

REKHA MITTAL, J.

The present appeal has been directed against the consistent findings recorded by the Courts below whereby suit filed by the plaintiff/appellant for grant of permanent and mandatory injunction was dismissed by the learned trial Court and the judgment and decree passed by the trial Court was affirmed in appeal.

The appellant staked his claim for grant of injunction on the allegation that he is mortgagee in possession of agricultural land situated within the revenue estate of village Bisru, detailed in Para 1 of the judgment of learned trial Court. The defendants who have no right, title or interest in the suit land are trying to interfere in his peaceful possession by raising construction thereon.

As the appellant failed to adduce any evidence, the learned

trial Court non-suited claim of the appellant. The appeal preferred by the appellant did not find favour with the District Judge, Mewat. The First Appellate Court in Para 9 of the judgment has held, reads thus:-

“The careful perusal of the order-sheet and the sequence of events as unfolded above, shows that the plaintiff/appellant was bent upon making mockery of the system of the administration of justice. In the considered opinion of this Court, learned trial Court should have closed the evidence of appellant/plaintiff much before when it actually did. This Court is not at all satisfied about showing undue magnanimity to the appellant/plaintiff at the cost of the system of administration of justice. Legislature has already fixed the number of opportunities which are to be granted for leading evidence and thereafter, the Hon'ble Superior Courts have granted some latitude but that does not mean that a litigant has been given liberty to waste valuable time of the Court. Therefore, this appeal is dismissed with costs.”

Counsel for the appellant has fairly conceded that despite number of opportunities granted for evidence of the appellant/plaintiff, the appellant did not adduce any evidence. However, it is submitted that the appellant submitted certain documents with his counsel but he failed to tender those documents in evidence, therefore, the judgments passed by the Courts below may be set-aside and an opportunity of adducing evidence be provided to the appellant.

I have heard counsel for the appellant, perused the grounds of appeal and the judgments passed by the Courts below.

In the grounds of appeal, not even a whisper has been made much less tendering any tangible and convincing explanation as

to why the appellant could not adduce any evidence despite the case being adjourned on a number of occasions giving him opportunity to prove his case. As the appellant did not adduce any evidence to establish his plea that he is in possession of the suit land and his right to possession has been invaded or threatened to be invaded by the respondents, no fault can be found in the findings recorded by the Courts below holding against the appellant/plaintiff.

To be fair to the appellant, an application has been filed under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure (in short 'CPC') for allowing additional evidence to produce copy of Jamabandi for the year 2001-02 and copy of Khasra Girdawari for the year 2012-13 (Annexures A-1 and A-2). Counsel for the appellant has failed to satisfy as to how the present application falls within the purview and ambit of Order 41 Rule 27 (a) and (aa) CPC in order to permit the appellant to adduce additional evidence and reopen the case at this belated stage when otherwise he adopted a callous and indifferent attitude towards the Court proceedings that remained pending before the trial Court and the First Appellate Court. In this view of the matter, I do not find any merit in the application for additional evidence.

For the foregoing reasons, the appeal fails and is accordingly dismissed. No order as to costs.

03.05.2016
yakub

(REKHA MITTAL)
JUDGE