

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

RSA-253-2016 (O&M)

Date of decision: 25.01.2016

Bachittar Singh

...Appellant(s)

Versus

Gram Panchayat of village Jhandewala

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. K.R. Dhawan, Advocate for the appellant(s).

JITENDRA CHAUHAN, J.

CM-830-C-2016

Heard.

For the reasons recorded in the application, the same is allowed and the delay of 01 day in filing the present appeal is condoned, subject to all just exceptions.

RSA-253-2016 (O&M)

The instant regular second appeal has been preferred against the judgment and decree dated 11.08.2014, passed by the learned Civil Judge (Junior Division), Moga (for short, 'the trial Court'), whereby, the suit of the plaintiff-appellant had been dismissed; and judgment and decree dated 10.07.2015, passed by

the learned Additional District Judge, Moga, (for short, the first Appellate Court), whereby, the appeal preferred by the plaintiff-appellant against the impugned judgment and decree dated 11.08.2014, of the trial Court, had been dismissed.

Learned counsel for the appellant has submitted that the findings recorded by the learned Courts below are against the settled proposition of law that even a trespasser cannot be evicted without following the due procedure in law. The plaintiff could only be evicted under the provisions of Punjab Public Premises (Land Eviction and Rent Recovery) Act. The possession of the plaintiff-appellant has been admitted by the village Sarpanch during his cross-examination, thus, there was not need for the plaintiff to produce any document with regard to his possession over the suit land.

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

The plaintiff has asserted his right on the suit land on the ground of possession, however, he has not produced on record even a single document to show that the land in question was allotted to either his father or his uncles. Even in his cross-examination, he has categorically stated that no such letter was in his possession. He has also admitted that all the residents of the Village used to dump garbage in the suit land, thus, exclusive

possession of the appellant is not proved. On the contrary, he has relied upon the resolution dated 25.05.2010, passed by the Gram Panchayat, as well as letters dated 04.06.2010 and 09.06.2010, for getting the appellant evicted therefrom. However, the plaintiff has to stand on his own legs to prove his case. A perusal of jamabandi for the year 2008-09 for the land in question measuring 02 kanals and 18 marlas bearing khasra No.27/6/1, the defendant-Gram Panchayat is recorded as the owner of the land, whereas, in the column of possession, 'Bashindgan Deh' is written.

In view of the above facts and circumstances, this Court feels that the plaintiff has failed to prove his exclusive possession of the suit land.

No question of law arises in the present appeal. Hence, no interference is called for.

Dismissed in limine.

25.01.2016

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**(JITENDRA CHAUHAN)
JUDGE**