

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

**RSA No.602 of 2016 (O&M)
Date of decision:16.05.2016**

Tarlochan Singh

... Appellant

Vs.

Surjit Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Malkeet Singh, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby, claim seeking permanent injunction against the respondent-defendants from forcible dispossession and interference, has been declined by both the Courts below.

Mr. Malkeet Singh, learned counsel appearing on behalf of the appellant-plaintiff submits that registration of FIR bearing No.36 dated 15.04.2008 (Ex.D1) against the son of the plaintiff for making an attempt for forcible possession and mere registration of FIR is not sufficient to form an opinion that plaintiff was not in possession. He further submits that conviction is not under Section 452 of the Indian Penal Code, i.e., tress pass, whereas, on the contrary, photographs and site plan have been proved on record to

show the possession of plaintiff. On the contrary, defendants have failed to prove the possession as pleaded in the written statement and thus, urges this Court to formulate the substantial questions of law as culled out in the memorandum of appeal.

I have heard learned counsel for the appellant-plaintiff and appraised the paper book and of the view that it is no longer in dispute that appellant-plaintiff has miserably failed to prove his case by leading affirmative evidence, i.e., direct and cogent. Except his self serving statement and photographs, no corroborative oral and documentary evidence has been proved on record. In my view, the appellant-plaintiff has failed to discharge the onus as per the provisions enshrined under Section 101 of the Indian Evidence Act. The foundation was though laid but was so weak. The injunction as sought, has rightly been declined.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 16, 2016
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