

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

**R.S.A. No. 2183 of 2014 (O&M)**

**Date of Decision: 11.01.2016**

**Kanwal Nain Singh**

**.....Appellant**

**Versus**

**Jagdish Singh and others**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN**

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?

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

\*\*\*

**SHEKHER DHAWAN, J**

Present Regular Second Appeal is against concurrent findings of both the Courts below whereby the suit filed by the plaintiff for permanent injunction was dismissed and appeal filed before the Court of first appeal was also dismissed.

2. For the sake of convenience, the parties are being referred to as per their status before the Court of first instance. Relevant facts for the purpose of decision of present Regular Second Appeal that plaintiff had filed suit for permanent injunction on the ground that the plaintiff was owner in possession of a Bara in dispute. Balwant Singh was retired from service and had started residing in village Thaska Ali with the father of

plaintiff Sukhpal Singh because his sons were residing abroad. Since the date of retirement he resided with Avtar Singh (father of plaintiff No.1) at village Thaska Ali. Balwant Singh was relative of Avtar Singh. The said Avtar Singh used to look after his moveable and immovable property. Plaintiffs were in possession of the suit property for the last more than 20 years and using the suit property on behalf of Balwant Singh for agriculture and allied purposes. The said property is situated in front of the houses of the plaintiffs. There is a public street between the suit property and houses of the plaintiffs. The plaintiffs claimed themselves to be owner in possession of the suit property. Plaintiffs requested the respondents to admit their claim but no effect and as such the necessity of the suit.

3. Defendants contested the suit, taking the plea that plaintiffs have no locus-standi and cause of action to file and maintain the present suit. As per defendants, Shiv Singh son of Hira Singh was owner in possession of the suit property, who sold the same along with agriculture land to defendant Nos.1 to 3, vide registered sale deed dated 08.11.1963 and said Balwant Singh never remained in possession nor he was owner of the suit property. Plaintiffs have not been able to attach any document or place on record any sale deed to prove their ownership and possession, whereas defendant Nos.1 to 3 are bona-fide purchasers for valuable consideration and they are real owners in possession of the suit property. The plaintiffs never remained in possession of suit property at any time.

4. On these facts, the following issues were framed by the Court of first instance

- “1. Whether the plaintiffs are owners in possession of the suit land as alleged in the plaint? OPP

2. If issue No.1 is proved, whether the plaintiffs are entitled to injunction as prayed for? OPP.
  3. Whether the suit is not maintainable in the present form? OPD.
  4. Whether the plaintiffs have no locus-standi nor cause of action to file and maintain the present suit? OPD.
  5. Whether the suit is bad for non-joinder and mis-joinder of the necessary parties? OPD.
  6. Whether the suit is not properly valued for the purpose of court fee and jurisdiction? OPD.
  7. Whether the plaintiffs are stopped by their own act and conduct to file the present suit? OPD.
  8. Relief.”
5. Learned Court of first instance, after considering the material and evidence available on file, dismissed the suit of the plaintiffs on the ground that the plaintiffs failed to prove that they are owner in possession of the suit property rather the defendants are owner in possession of the property in question. First appeal filed before the first appellate Court was also dismissed.
6. At the time of arguments, learned counsel for the appellant submitted that plaintiffs are owner in possession of the suit property. Both the Courts below have not considered this fact while returning the findings and the said findings were liable to be reversed.
7. Having considering the submissions made by learned counsel for the appellant and after going through the record of the case, this Court is of the considered view that both the Courts below have already recorded concurrent findings of fact and holding that plaintiffs failed to prove the ownership and possession of the suit property.
8. This being the Regular Second Appeal against concurrent findings of both the Courts recorded on the basis of facts and evidence available on file and as such, the same is not maintainable as there is

absolutely no substantial question of law involved in this case. Such a law was laid down by Hon'ble the Supreme Court in case **Santosh Hazari Vs. Purushottam Tiwai (Dead) by LRs., 2001(2) JT 407.**

9. In view of the above, the present Regular Second Appeal is without any merit and same stands dismissed.

**January 11, 2016**  
naresh.k.

**( SHEKHER DHAWAN )**  
**JUDGE**