

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

RSA-30 of 2014 (O&M)

Date of decision: 26.05.2016

Joginder Singh and others

...Appellants

Versus

Surat Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Sudhir Hooda, Advocate
for the appellants.

Jitendra Chauhan, J. (Oral)

The plaintiff/appellants filed a suit for permanent injunction. The trial Court vide judgment and decree dated 07.03.2011, dismissed the suit.

2. Aggrieved against the findings of trial Court, the appellants filed an appeal which was dismissed by the learned first Appellate Court, vide judgment and decree dated 18.11.2013.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant

appeal at the behest of the appellants.

4. The only argument raised by learned counsel is that the plot in dispute was used by their forefathers and now the appellants have been using the same for the purpose of laying dung hill and dung cakes. The respondents without any title or interest in the suit property forcibly tried to dispossess the appellants from the same.

5. Heard, the learned counsel and perused the record.

6. The appellants filed a suit for permanent injunction on the ground that they had laid dung hill and have been laying the dung cakes in the plot in dispute. The appellants have claimed their possession over the suit property on the ground that since their forefathers had been using the suit property, therefore, they are the rightful owners of the suit land. However, they have failed to produce any document in support of their claim. Per contra, defendant/respondents have placed on record the judgment and decree dated 02.02.1989, Ex.D4 and Ex.D5, by virtue of which they had been declared owners of the suit property. The said judgment and decree were also challenged but the same were affirmed, vide judgment and decree dated 05.08.2000, Ex.D1 and Ex.D2. The appellants have not

mentioned in the plaint regarding the earlier litigation wherein the father of the plaintiff No.5, Nafe Singh was party in the earlier suit which stand decided against them. Similarly, Ram Kishan, plaintiff No.1 of the earlier suit, is real brother of Prem, plaintiff No.3 of instant suit. The appellants have concealed the material facts from the Court. Otherwise also laying of the dung cakes and raising dung hill does not entitle the appellants to claim title or even possession over the suit property. At the most, they can be termed as users of the suit property instead of being in possession thereof. The plaintiffs have failed to establish their possession over the plot in suit.

7. Thus, in view of the above discussion, this Court concurs with the observations of the both the Courts below. There is no illegality or perversity in the judgments and decrees passed by the Courts below. No substantial question of law arises for consideration. Hence, no interference is called for.

Dismissed.

26.05.2016

sumit.k

(JITENDRA CHAUHAN)
JUDGE