

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

**Regular Second Appeal No.5724 of 2014 (O&M)
Date of Decision: November 08, 2016.**

Raj Singh

.....APPELLANT(s).

VERSUS

Nishi and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Peeush Gagneja, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

This is appeal against the concurrent judgments and decree passed by the Courts below, whereby the suit filed by appellant-plaintiff seeking the relief of permanent injunction restraining the defendants from interfering in his peaceful possession over the land measuring 169 kanals 14 marlas as fully defined in the head note of the plaint situated in village Kala Tibba, Tehsil Abohar, District Ferozepur (now District Fazilka) and further for restraining the defendants from ousting the plaintiff from the suit land, was dismissed.

The plaintiff based his claim on registered lease deed dated 27.09.2001 alleged to have been executed by Rominderpal Singh son of Raghubir Singh, defendant No.3, vide which suit land was given to him on lease for a period of 99 years i.e. from *Sauni* 2001 to *Hari* 2100 @

₹43,000/- per year.

During the course of evidence, it transpired that the lease deed was in fact executed by Rajinder Kaur wife of late Tajinderpal Singh, defendant No.2, who admittedly is only a cosharer in the suit land and did not own the suit land to the exclusion of other cosharers. This fact is also not disputed that the suit land is still joint of the cosharers and has not been partitioned. Faced with this situation, trial Court has observed that “in the said circumstances, defendant No.2 alone was not competent to execute lease deed defeating the right of other cosharers.”

Learned first Appellate Court observed in para 18 and 19 of the judgment as follows:-

“18. The relief of permanent injunction has been claimed by the appellant without claiming the relief of declaration. There is only oral evidence led on file on behalf of the appellant regarding the possession over the land but the same is not supported with the documentary evidence. As such, the appellant has even failed to prove his possession over the suit land.

19. Although, relief has been sought by the appellant as against respondent No.1, but at the time of appearing into the witness box as PW-1, the appellant has deposed in his cross-examination that he has no dispute with Nishi defendant No.1 but one fails to understand that when appellant was not having any dispute with respondent No.1, then why unnecessary litigation has been initiated by the appellant as against respondent No.1 and why respondent No.1 has been dragged by way of filing the present appeal.”

The appellant-plaintiff has not set up the case of his exclusive

possession over any particular portion of the land or to show that he came in possession of the suit land by excluding defendants No.1 and 3.

In view of the above discussion and on perusal of the judgments and decree of the Courts below, I find no legal or factual infirmity therein calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

November 08, 2016
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***