

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

106

Regular Second Appeal No.6188 of 2014 (O&M)
Date of Decision: March 15, 2016

Madan Lal

...Appellant

Versus

Pran Nath now deceased through LRs and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Balbir Kumar Saini, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 02.06.2009 passed by the Civil Judge (Senior Division), Hoshiarpur, whereby the suit filed by the appellant-plaintiff for permanent injunction restraining the respondents-defendants from interfering in peaceful possession of the appellant-plaintiff in and over the land measuring 3 kanals as detailed in the headnote, situated in village Kotla Gaunspur, Tehsil and District Hoshiarpur, has been dismissed, appeal against which preferred by the appellant-plaintiff has also been dismissed by the Additional District Judge, Hoshiarpur, on 29.09.2014.

2. It is the contention of learned counsel for the appellant that as per the pattanama/agreement/rent note dated 14.02.1977 Exhibit P-1, the appellant-plaintiff came into possession of the suit property and is continuing since then. He contends that the order by which the corrections in the revenue record were carried out i.e. 09.02.2006 Exhibit PX, was challenged by the respondents-defendants in an appeal and thereafter a revision petition but both these have been dismissed and the order dated 09.02.2006 has attained finality. He contends that although the revenue record reflects his possession with effect from Kharif-2002 but in the light

of the patanama, the appellant-plaintiff should be deemed to be in possession of the said suit land and, therefore, the injunction, as has been declined by the Courts below, cannot sustain and deserves to be set aside.

3. Considering the submissions made by learned counsel for the appellant, the said assertion cannot be accepted in the light of the fact that mere patanama/agreement dated 14.02.1977, even if entered into between the parties, would not prove him to be in possession of the suit property as the revenue record does not reflect the same. The present suit for injunction has been filed on 22.03.2001 and as per the evidence which has been brought on record, the appellant-plaintiff had sought correction of the revenue record but the competent authority has only shown the appellant-plaintiff to be in possession of the suit property with effect from Kharif-2002 and not prior thereto. In the light of the fact that the appellant-plaintiff has not been able to prove that prior to the filing of the suit or at least on the date of filing of the suit, he was in possession of the suit property, the Courts have rightly proceeded to deny him the permanent injunction regarding the suit land, as has been sought by him. There is no illegality in the impugned judgments passed by the Courts below as they are in accordance with law.

4. The application which has been filed in this Court for additional evidence is an effort to place on record the jamabandi for the year 2010-11 according to which the appellant-plaintiff is in possession of the suit land but the said document would not be of any help to the cause of the case as admittedly as per the revenue record, the appellant-plaintiff is shown to be in possession of the suit land with effect from 2002 only and not prior thereto. The application i.e. CM No.14763-C of 2014, therefore, has no

merit and the same is dismissed.

4. No other point has been raised or argued by the counsel for the appellant.

5. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

6. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.14762-C of 2014, stands disposed of as infructuous.

March 15, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE