

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

**RSA No. 4263 of 2013 (O&M)
Date of Decision: 22.09.2017**

Sunil Kumar Ahluwalia

..... Appellant

Versus

Jai Singh and another

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. N.D. Achint Advocate
for the appellant.

None for respondent No. 1.

JASWANT SINGH, J. (ORAL)

Appellant-Sunil Kumar Ahluwalia has filed the present appeal against the concurrent findings passed by both the Courts below, whereby the suit of Jai Singh-plaintiff/respondent No. 1 for permanent injunction was accepted and it was ordered that he cannot be dispossessed except in due course of law vide judgment dated 17.12.2009 passed by learned Additional Civil Judge (Sr. Divn.), Gurgaon, and the findings were affirmed in appeal by the learned Additional District Judge, Gurgaon, vide its order dated 17.10.2012.

The trial Court, vide aforesaid judgment had also dismissed the counter-claim of Narender Singh (defendant No. 1) and M/s. Great City Developers Pvt. Ltd. (defendant No. 2) seeking permanent injunction against the plaintiff and the other defendants from illegally and forcibly dispossessing them from the portion of the joint land in their exclusive

possession, as detailed in their counter-claim.

Appeal was filed by defendant Nos. 1 and 2 only against the judgment and both the decree dated 17.12.2009, which was duly affirmed by the Lower Appellate Court by the aforesaid judgment and decree dated 17.10.2012.

The plaintiff had claimed that his forefathers had been *Gair Marusi* (without payment of rent) over the suit property owned by the defendants and after their death, the plaintiff, being the descendant, had succeeded the tenancy rights with possession. However, in the revenue records, since the year 1971, they were wrongly being shown not in possession. In the suit, Krishan Pal was impleaded as defendant No. 3, being a joint owner of the suit property, under whom the tenancy with occupation was claimed. After the decree passed by the trial Court, Krishan Pal/defendant No. 3 did not file any first appeal.

Appellant-Sunil Kumar Ahluwalia alongwith the present appeal has filed applications bearing; **CM No. 11498-C of 2013** seeking permission to file the present appeal in view of he having purchased land measuring 8 kanals equal to the 2/3rd share of the Krishan Pal vide sale deed dated 25.09.2006; **CM No. 11499-C of 2013** seeking permission to lead additional evidence; and **CM No. 11497-C of 2013** seeking condonation of delay of 149 days' in filing the appeal has also been filed.

Notice, only, qua application for condonation of delay was issued vide order dated 02.06.2016. No reply has been filed to-date.

After hearing learned counsel for the appellant, this Court finds that the present appeal filed on behalf of Sunil Kumar Ahluwalia,

would not be maintainable. The suit of the plaintiff was for injunction from

forcible dispossession at the hands of defendants including Krishan Pal, who after suffering the decree, did not file any appeal. Therefore, at this stage, the applicant cannot be impleaded as a party as the relief of injunction, being a personal relief, was claimed against Krishan Pal (defendant No. 3) and other co-defendants. Krishan Pal chose not to file any appeal, therefore, the injunction qua him became final. Hence, the applicant has no locus to maintain the present appeal.

Thus, application bearing **CM No. 11498-C of 2013** is dismissed.

No separate orders are required to be passed in remaining applications, as also in appeal.

Dismissed.

September 22, 2017

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**(JASWANT SINGH)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No