

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

RSA No.4367 of 2017 (O&M)

Date of decision : 12.09.2017

Rati Ram

...Appellant

Versus

Ram Sarup and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Aashna Gill, Advocate for
Mr. Aman Pal, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.11308-C of 2017

For the reasons stated in the application, which is duly supported by an affidavit, delay of 23 days in filing the present appeal is condoned.

Application is allowed.

Main Case

Plaintiff is in Regular Second Appeal against the judgment passed by the District Judge, Palwal.

Plaintiff had filed a suit seeking decree for permanent injunction to the effect that the plaintiff is owner and in possession of *gair mumkin gait* (plot) situated within the abadi deh of Village Bhurja, Tehsil and District Palwal. Plaintiff had also prayed for a decree of mandatory

injunction. Defendants disputed the ownership and the possession of the plaintiff.

No document of title was produced. Plaintiff himself appeared in the witness-box as PW1 and examined Megh Shyam Sharma, Draftsman. Plaintiff only produced Ex.P1 i.e. site plan of the suit land.

Learned District Judge has held that the suit is only for injunction and the plaintiff himself has admitted in cross-examination that it is the defendants who are in possession of the property.

I have examined the statement of the plaintiff. He has admitted that the defendants are using the disputed plot for their own use and he did not stop them as the defendants would have fought with him. The present suit is only for injunction. Once the possession of the defendants is admitted, no relief can be granted in the suit for injunction. No document of title has been produced.

In view of the aforesaid fact, I do not find any good ground to interfere with the findings of fact arrived at by the learned District Judge, Palwal. However, plaintiff would be at liberty to seek the possession if he has any right, title or interest in the aforesaid land. In the suit for injunction, only dispute with regard to the possession is determined.

In view of the above, the present Regular Second Appeal is dismissed.

12.09.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No