

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

**RSA No.4390 of 2017 (O&M)
Date of Decision: 13.09.2017**

Lakhvir Singh through LRs.

... Appellant

Versus

Hardev Singh

... Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.S. Rangi, Advocate,
for the appellant.

ANIL KSHETARPAL, J. (ORAL).

The plaintiff is in Regular Second Appeal against the judgement passed by the learned first Appellate Court dated 02.08.2017.

The plaintiff had filed a suit for declaration that he is owner in possession of 1/41 share out of the total land of 127 Bighas and 7 Biswas. He had claimed that he had purchased the share of the father of the defendant vide agreement to sell dated 09.05.2003. He has further pleaded that the father of the defendant had also executed an affidavit to this effect.

The learned trial Court after appreciating the evidence available on the file held that the plaintiff has no right to claim ownership over the suit property on the basis of the agreement to sell. However, the learned trial Court granted injunction to the plaintiff against forcible dispossession.

In appeal, the learned first Appellate Court after reappreciating the evidence has held that the plaintiff is not entitled to injunction against forcible dispossession also. The learned first Appellate Court has noticed

that the property in fact belongs to the Hrijan Co-operative Society and there is a restriction on the sale and mortgage of the aforesaid property. The learned Court has further noticed that the plaintiff having no right, title or interest in the property is not entitled to injunction against the true owner.

Learned counsel for the appellant/plaintiff has submitted that the plaintiff is entitled to injunction as his possession is proved from the agreement to sell, affidavit and the Khasra Girdawari.

Once the plaintiff/appellant has no right, title or interest in the property and particularly when there is a restriction on the sale/mortgage of the property, the possession of the plaintiff cannot be protected by an injunction.

For the reasons recorded above, I do not find any good ground to interfere with the judgement passed by the learned first Appellate Court.

The appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

13.09.2017
sk

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No