

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

RSA 9/2017

Date of decision: 23.10.2017

Surender

.....Appellant

v.

State of Haryana and another

.....Respondents

Coram: Hon'ble Mr. Justice Jaswant Singh

Present:- Mr. Arun Luthra, Advocate for the appellant.

Jaswant Singh, J. (Oral).

Plaintiff is in second appeal against concurrent judgments whereby his suit for permanent injunction has been dismissed vide judgment and decree dated 29.5.2014 passed by learned Civil Judge (Junior Division) Gohana and the findings thereof affirmed in appeal vide judgment and decree dated 11.8.2016 passed by Additional District Judge, Sonapat.

Counsel for the appellant heard at length.

It is argued that from the oral evidence of the plaintiff-Surender PW-1 and Anup Singh PW-2, it is proved that the plaintiff/appellant is owner in possession of the suit property as per site plan Exhibit P1 duly proved by Mohan Lal Verma, PW3. It is further argued that no evidence had been led by the defendant/Gram Panchayat to prove that they were owners of the suit property before their evidence was closed by Court order on 21.5.2014.

After hearing counsel for the appellant and perusing the material on record, this Court is convinced that the present appeal is devoid of any merit.

The claim of the plaintiff is that the house on the site in dispute, which was ancestral, was constructed by his father in the year 1980 and on the basis of a family settlement the same had come to his share. Thus, he

was owner in possession and therefore, filed a suit for permanent injunction to restrain the defendant State of Haryana and Gram Panchayat, Saragthal, Tehsil Gohana, defendant no.2 from interfering in his possession based on ownership.

Defendant-Gram Panchayat in the written statement denied the ownership of the plaintiff over the suit property and asserted that his possession was unauthorized, as he is encroacher upon the property of the Gram Panchayat. It was also denied that the suit property was ancestral property of the plaintiff rather the same was owned by Gram Panchayat which had every right to dispossess the plaintiff by taking legal course of action.

Both the Courts have found that the plaintiff has failed to prove that the property was ancestral in nature, or he was owner of the same having come to his share by any family settlement and therefore, declined to grant injunction claimed on the basis of ownership. Merely examining of a witness or proving the site plan did not warrant grant of injunction qua possession based on ownership. The situation would have been different if the claim of the plaintiff was for injunction simpliciter without claiming to be owner in possession. The defendant-Gram Panchayat itself in its written statement has taken a stand that unauthorized possession of the plaintiff would be interfered only by taking legal course of action, therefore, no further interference is warranted.

In view of the above, no question of law much less substantial question of law arises in the present appeal.

Dismissed.

23.10.2017
joshi

(Jaswant Singh)
Judge

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