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

**RSA-1574-1991 (O&M)
Date of decision : 14.02.2018**

Naranjan Singh

... Appellant(s)

Versus

Kartar Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Sukhmani Tiwana, Advocate for
Mr. Vikas Singh, Advocate
for the appellant.

None for the respondent(s).

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent findings of fact, whereby the suit for permanent injunction restraining the defendants from taking forcible possession or from interfering in any manner into the peaceful possession in respect of the suit property, has been dismissed by both the Courts below.

The appellant-plaintiff instituted the suit on the premise that he was in possession of the property, as described in the plaint on the ground that he had become owner by virtue of the succession. The brother of the appellant-plaintiff was also joined along with him. The defendants had no concern with regard to the plot. They were neither the owners nor they ever in possession of the plot. Once they intended to take the forcible possession on 11.07.1987, the suit was instituted on 14.07.1987.

The defendants contested the suit by filing the written statement stated that the property was ancestral and they inherited the property, even the entry in that regard was made in khasra shamriat No.346 in the name of Shri Gulab Singh son of Massa Singh, who was the grandfather of defendant No.1. The plaintiff was not in possession. The trial Court on the basis of the evidence brought on record dismissed the suit. The appeal taken before the lower Appellate Court also met with the same fate.

Ms. Sukhmani Tiwana, learned counsel appearing on behalf of the appellant-plaintiff submits that both the Courts below have committed illegality and perversity as umpteen number of documents i.e. jambandi for the year 1891-92, pedigree table and mutation No.1676 had been placed on record to establish the possession. No person, who is found to be in long and settled possession of the property, can be dispossessed except in due course of law. In support of his contentions, she relies upon the *ratio decidendi* culled out by the Hon'ble Supreme Court in **"Rame Gowda (D) LRs V/s Mr. Varadappa Naidu (D) by LRs and another" 2004 (1) SCC 769.**

In Ex.D-3, name of the father of Gulab Singh was mentioned as Masodi or Masadi, whereas the name of the father of Gulab Singh i.e. grandfather of defendant No.1, was Teka, thus, there was misdirection and misreading, therefore, injunction was liable to be granted.

She further submits that the documents (Ex.D2 and D-3) sought to be placed on record by way of additional evidence through application bearing CM No.2333-C of 1991, to reiterate the pleadings in the suit viz-a-viz possession, thus, the documents are essential and necessary and urges

this Court for allowing the aforesaid application.

There is no representation on behalf of the respondents-defendants. The appeal is of the year 1991. Accordingly, I proceed to decide the appeal on merits.

I have heard the learned counsel for the appellant-plaintiff and appraised the paper book and of the view that there is no merit and force in the submissions of Ms. Tiwana, for, in order to establish the possession, the plaintiff is required to stand on his own legs by discharging the onus as enshrined under Section 101 of the Indian Evidence Act. No evidence has been placed on record to establish the long and continuous possession to take the aid of the *ratio decidendi* culled out in **Rame Gowda's case** (**supra**). The draftsman, who prepared the site plan, was not produced by the plaintiff. In my view, the plaintiff miserably failed to discharge the onus in support of his pleadings. No person can seek the injunction for the sake of it, until and unless, he establishes the basic ingredients of fulfilling the claim in the suit.

For the foregoing reasons, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below as the same are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination, accordingly, the appeal as well as the application seeking additional evidence is dismissed.

14.02.2018

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**