

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

RSA No.3432 of 2016 (O&M)

Date of decision:23.05.2018

Bijender @ Bijender Singh

... Appellant

Vs.

Sat Narain (since deceased) through LRs and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. K.S.Dadwal, Advocate with
Ms. Neha Jain, Advocate
for the appellant.**

AMIT RAWAL J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the concurrent findings of facts and law, whereby, suit for permanent injunction restraining the defendants from interfering into peaceful possession of the plaintiff and from dispossession from the suit property of residential house bearing No.116 measuring 80 square yards situated within the abadi-deh of village Bhatgaon, Tehsil and District Sonipat, has been dismissed by the trial Court and affirmed by the Lower Appellate Court.

Mr. K.S.Dadwal, learned counsel appearing on behalf of the appellant-plaintiff submits that suit property aforementioned came to the share of the father of plaintiff in view of the writing dated 23.06.1986 given by defendant No.1-Sat Narain. The aforementioned writing was a result of family settlement on payment of ₹20,000/- and since then, father of the

plaintiff had been in possession. Since he was serving as Class IV employee in BSF, the defendants by taking the advantage of his absence, attempted to cause forcible interference, thus, cause of action arose to file the suit on 18.07.2008.

The trial Court granted the ad interim injunction and posted the matter for 18.07.2008 but during the interregnum, the defendants had forcibly taken the possession and therefore, the issue with regard to restoration was subsequently framed. The defendants had set up a document dated 15.04.2007, Ex.D1 which had not been proved on record, whereby, Om Parkash, father of the plaintiff stated to have entered into compromise and possession of disputed house was given to defendant no.1 for a consideration of ₹25,000/-. The said document was un-registered and remained un-proved. The findings of the Courts below are not sustainable in the eyes of law and liable to be set aside as there is gross illegality and perversity, for, Chula Tax-Ex.PW6/2 has been proved on record to show that same was paid by Bijender Singh.

I have heard the learned counsel for the appellant-plaintiff, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Dadwal, for, on the preponderance of evidence, the trial Court found that possession had been with the defendants. The plaintiff has remedy to seek relief of possession and claim title on the basis of the document, for, the defendants in the written statement had disclosed about the writing dated 15.04.2007

of having taken the possession, much less title. It is yet to be proved whether the document conferred title or not, thus, I am of the view that observation of the Courts below in declining to grant injunction does not call for any interference.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees of the Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

No other argument has been raised.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 23, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No