

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

**RSA No.4906 of 2016(O&M)**

**Date of decision: 29.8.2018**

Dharmender Singh

....Appellant

VERSUS

Ramotar and others

.....Respondents

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**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. S.K. Yadav, Advocate for the appellant.

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**REKHA MITTAL, J.(Oral)**

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for permanent injunction to restrain the defendants/respondents from interfering into possession of the plaintiff and not to dispossess him forcibly from 17 marlas of land, detailed in head-note of the plaint was dismissed by the trial Court vide judgment and decree dated 15.09.2014 and appeal preferred by the unsuccessful plaintiff/appellant did not find favour with the Additional District Judge, Narnaul.

Counsel for the appellant would urge that findings recorded by the Courts are not based upon correct appreciation of evidence on record and liable to be set aside.

The trial Court, in para 12 of the judgment, has noticed that in a suit for injunction against interference in possession or forcible dispossession of the plaintiff, possession is the sine qua non. If the plaintiff is not in possession of the suit property, he cannot claim any

injunction. In the said para, the Court has noticed certain material facts elicited in cross examination of the plaintiff whereby he admitted that Sher Singh and Mamraj have built their pakka houses on suit land and further admitted about possession of Ramavtar, Vijay and Basti Ram. Counsel for the appellant is not in a position to dispute facts noticed by the trial Court in para 12 of the judgment. No sooner the appellant has admitted that the defendants are in possession of the suit land, he cannot press his claim for grant of permanent injunction against interference in his possession or forcible dispossession. In this view of the matter, I do not find an error much less perversity in the concurrent findings recorded by the Courts warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

**AUGUST 29, 2018**

‘D. Gulati’

**(REKHA MITTAL)**

**JUDGE**

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no