

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

**RSA-5612-2016 (O&M)
Date of Decision: May 18, 2018**

Sadha Singh (Deceased) through LR

...Appellant

Versus

Amrik Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rajinder Sharma, Advocate,
for the appellant.

Mr. A.P.S. Shergill, Advocate,
for the caveator/respondent No. 1.

ARUN PALLI, J. (ORAL)

Suit filed by the appellant-plaintiff was dismissed by the Trial Court, vide judgment and decree, dated 23.12.2013. As even the appeal preferred against the said decree failed and was dismissed on 07.01.2016, the appellant-plaintiff is in Regular Second Appeal. The parties to the *lis*, hereinafter shall be referred to by their original positions in the suit.

The plaintiff claimed a decree for injunction in respect of a residential house, situated at village Jhanjoti, Tehsil Ajnala, District Amritsar, within the *Lal Lakir* of the village, restraining the defendant from causing interference in his peaceful possession. Briefly, the case set out by the plaintiff has been that the suit property consisted of four rooms, varandah, one kitchen, bathroom and other amenities, and was constructed

by the plaintiff upon a plot, which he had inherited from his forefathers. The

suit property was being used as a residential house. The defendant, who had no right, title or interest in the suit property, and was residing at Ludhiana, was still seeking to interfere with the possession of the plaintiff, and even demolish the construction raised by the plaintiff.

In the written statement filed on behalf of the defendant it was pleaded that the suit property was owned by the defendant, who has been serving as District Revenue Officer. In the year 1988-89, the defendant shifted to Ludhiana, and as he was not residing in the village, he let out two rooms out of the suit property to the plaintiff, and the remaining three rooms & the adjoining area continued to be in his possession. However, by taking advantage of the absence of the defendant, the plaintiff got the electric connection installed in the name of the defendant, disconnected, and obtained a new connection in his name by playing fraud with the department.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded, for, the plaintiff Sadha Singh had died during pendency of the suit, therefore, Dalbir Kaur (PW-1), his widow appeared in the witness box. She denied that a part of the suit property was taken on rent from the defendant. Rather, she deposed that the house in question was inherited by his late husband from his forefathers. However, in her cross-examination she conceded that she had never seen any document of title in favour of the ancestors of Sadha Singh qua the suit property. Likewise, even Manjit Singh (PW-2), admitted in his cross-examination that he had never seen any document as regards ownership of the suit property. The plaintiff failed to prove that suit property was ancestral

coparcenary in the hands of late Sadha Singh, for lack of any evidence. Thus, the bald statement of Dalbir Kaur (PW-1), and Manjit Singh (PW-2) was wholly inconsequential. David Masih (PW-3) was examined to prove the site plan (Ex.P-1), but even he deposed that he had not seen any document of ownership of the plaintiff. Meaning thereby, neither the plaintiff could prove that the suit property was owned by the forefathers of late Sadha Singh, nor that it devolved upon him by inheritance. Nothing was brought on record either to show if it was the self-acquired property of the deceased. On the contrary, Kuldeep Singh (DW-1) identified the signatures of his father late Mangal Singh, who happened to be one of the attesting witnesses of the rent note (Ex.DW-1/1). The rent note (Ex.D1) clearly showed that late Sadha Singh had taken two rooms on rent from the defendant-Amrik Singh, and as per the recitals in the said document, Amrik Singh was also referred to as the owner of the disputed property. However, this position was completely concealed from the court by the plaintiff. Rather, the present suit was filed by the plaintiff claiming himself the owner in possession of the suit property. This was never his case that there existed a relationship of landlord and tenant between the parties or he was in possession as tenant. But, as he has concealed the material facts from the court, as regards the nature of his possession and rather claimed to be the owner of the suit property, it was held that the plaintiff was not entitled to an equitable relief of injunction.

On being pointedly asked, learned counsel for the appellant-plaintiff could not refer to anything on record to show if the conclusions arrived at by both the Courts were either contrary to the position on record

or suffered from any material illegality.

No other argument was advanced.

No question of law, much less any substantial question of law arises for consideration. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

May 18, 2018

P Kapoor

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO