

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

RSA No.6397 of 2016(O&M)
Date of decision: 15.05.2018

Kewal Singh

... Appellant

Versus

Angrej Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Baltej Singh Sidhu, Advocate for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiff was dismissed by the trial Court vide judgment and decree dated 06.01.2016. As even the appeal preferred against the said decree failed and was dismissed on 03.08.2016, he is in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiff prayed for a decree for injunction restraining the defendants from causing interference in his peaceful possession over the land measuring 18 kanals, comprised in khewat No.72/63, khatoni No.264, rect. No.10, killa No.17 min (4-0), 24(8-0) rect. No.27, killa No.4 min (5-10) killa No.4 min(0-10), situated in village Shergarh Gian Singh, Tehsil Malout, District Sri Muktsar Sahib. Briefly, the case set out by the plaintiff was; that he happened to be the co-sharer in the land situated in village

Shergarh Gian Singh as also in the other villages. But as per the revenue record, he was in exclusive possession of the suit land. For, defendants were causing interference in his peaceful possession, thus, the suit.

In defence, it was pleaded that in fact plaintiff along with his brother and mother had sold their share, measuring 20 kanals 4 marlas out of khewat No.76. And mutation bearing No.1387 had accordingly been sanctioned in this regard. The plaintiff knowingly and to harass the defendants had filed the present suit without disclosing these facts. Therefore, the suit was liable to be dismissed.

On a consideration of the matter in issue, and the evidence on record, both the Courts concurrently concluded that plaintiff filed the present suit on the basis of jamabandi for the year 2005-06, whereas concededly the jamabandi for the year 2010-11 was already in existence and operating at the time of filing of the suit. A bare analysis of the mutation bearing No.1387 as also the jamabandi for the year 2010-11 revealed that the plaintiff had indeed sold his share out of the suit property, vide sale deed dated 05.05.2014, in favour of Jaspinder Kaur, Ranjit Kaur and Bikkar Singh. Nothing could be pointed out to justify as to why the present suit for injunction was filed on the basis of jamabandi for the year 2005-06. Even otherwise, jamabandi for the year 2005-06 (Ex.P8) showed that in khatoni No.264, the plaintiff was not recorded to be in exclusive possession, for Mohinder Singh son of Nihal Singh was also shown to be in possession as co-sharer. Likewise, in khatoni No.266, the plaintiff along with others was shown to be in joint possession as co-owner. Thus, the plaintiff failed to show that he indeed was in exclusive possession to the exclusion of other co-sharers, therefore, he could not be granted the injunction. Further, once

the plaintiff had sold a part of his holding before the institution of the suit, and did not disclose this fact, he was guilty of suppressing the material facts from the Court. Thus, the plaintiff could not be granted the relief for injunction, for he had failed to approach the Court with clean hands. On being pointedly asked, learned counsel for the appellant could not point out anything from the record to show if the conclusions arrived at by both the Courts were either contrary to the record or suffered from any material illegality.

Thus, 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

15.05.2018

Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO