

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

R.S.A.No.5670 of 2015(O&M)

Date of Order: 26.07.2018

Mallu Ram

..Appellant

Versus

Raj Kumar Tarnaich

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Avnish Mittal, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the judgment passed by the learned first appellate court while partly decreeing the suit granting injunction to the plaintiff protecting his possession to the extent, the area is within his constructed house.

Learned counsel for the appellant has submitted that the area in the possession of the appellant-plaintiff is less than what was allotted to him. However, in support thereof he could only refer to suggestions put up by learned counsel for the defendant in cross-examination to the plaintiff and a lay out plan, Ex.P4. There is no demarcation of the property, which is in possession of the plaintiff.

The case set up by the plaintiff-appellant is of deficiency in the area in his possession as compared to area which has been allotted to him or to his predecessors.

On the other hand, findings of the courts below are that the plaintiff has suppressed material facts and a permanent cemented stage for conduct of social functions constructed by the social club, is in existence.

Since the present suit is only for injunction which has already been granted with regard to the property in possession of the plaintiff and is part of his house, it would be more appropriate, if the appellant is permitted to file a suit for possession for remaining part, if any after establishing his title.

In view thereof, this court does not find any good ground to interfere.

The regular second appeal is dismissed.

July 26, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No