

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA-3416-2018(O&M)
Date of Decision: 02.07.2018

Sukhwinder Singh

--Appellant

Versus

Ranjit Singh

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. M.L. Saggar, Sr. Advocate with
Ms. Armaan Saggar, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Plaintiff Ranjit Singh filed a suit for permanent injunction to restrain defendant Sukhwinder Singh from interfering in his peaceful possession over the suit land measuring 39 kanals 14 marlas comprised in Khata No.24/25, Rect. No.7, Killa Nos.1, 2, 3, 8/1, 9, 10 situated in village Kiri, Tehsil Jagraon, District Ludhiana.

The Trial Court decreed the suit of the plaintiff vide judgement and decree dated 5.1.2015 and aggrieved of the same the defendant/appellant filed a civil appeal and vide impugned judgement dated 27.2.2018, the learned Additional District Judge, Ludhiana has dismissed the appeal.

Resultantly, defendant/appellant Sukhwinder Singh is in second appeal before this Court.

I have heard Mr. M.L. Saggar, Senior Advocate at length.

The short controversy between the parties is with respect to the possession as regards the suit property. The only relief sought by the plaintiff/respondent was an injunction simpliciter.

It has gone undisputed that an agreement to sell dated 12.1.2004 regarding the suit land was executed between the parties and it

was agreed for the sale deed to be executed on 16.11.2004. A suit for specific performance had been instituted by Sukhwinder Singh and which was decreed by the court of Civil Judge (Jr. Divn.), Jagraon vide judgement and decree dated 17.9.2012. Respondent/plaintiff Ranjit Singh preferred an appeal and which was allowed by the appellate court vide judgement dated 11.9.2013 and the decree dated 17.9.2012 was modified and alternate relief of recovery of Rs.10 lacs was granted to the appellant herein namely Sukhwinder Singh. On a specific query having been put, learned senior counsel concedes that in the agreement to sell dated 12.1.2004 there was no recital as regards parting of possession of the suit land in favour of Sukhwinder Singh appellant.

I find that it is upon due appreciation of evidence that the courts below have returned a concurrent finding as regards possession of the suit land in favour of Ranjit Singh respondent. In this regard apart from oral testimony of respondent-plaintiff Ranjit Singh, who appeared in the witness box as PW-3, testimony of PW-1 Hakam Singh and PW-2 Amarjit Singh had also been recorded to the same effect. Even documentary evidence i.e. copy of Jamabandi for the years 2000-2001 (Ex.P-1), copy of Khasra Girdawari Ex. P-2, copy of Jamabandi for the year 2005-2006 Ex.P-3 and copies of Khasra Girdawari Ex.P-4, P-5 and Ex.P-6 had been adduced reflecting possession of the respondent Ranjit Singh over the suit property. To rebut such evidence apart from the sole oral testimony of appellant Sukhwinder Singh, no other evidence had been led. Even though, appellant Sukhwinder Singh had examined DW-1 Mahender Singh, DW-2 Bant Singh and DW-3 Jagjit Singh but such witnesses concededly never appeared for cross-examination. Accordingly, the correct view has been taken that the

testimonies of DW-1, DW-2 and DW-3 cannot be read into evidence.

No infirmity is found in the judgement and decree passed by the Trial Court in granting the relief of injunction to the plaintiff having recorded a finding of his being in possession of the suit property. The lower appellate court has rightfully affirmed the decree and judgement of the Trial Court.

The present second appeal does not raise any question of law much less a substantial question of law.

The appeal, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

02.07.2018

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No