

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.4887 of 2017 (O&M)

Date of decision: 17.11.2018

Jagwant Singh

..... Appellant

Versus

Balwinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arihant Jain, Advocate and
Mr. Arun Jindal, Advocate
for the appellant.

ANIL KSHETARPAL, J.

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by both the Courts below dismissing the suit filed by the plaintiff seeking decree of permanent injunction against Balwinder Singh and others restraining the defendants from dispossessing the plaintiff from the land measuring 6 bighas, 17 biswas being 1/10th share of the land measuring 68 bighas and 14 biswas.

It has come on record that Balwinder Singh is a decree-holder in a suit for possession by way of specific performance of the agreement to sell filed against Saudagar Singh. The plaintiff-appellant and Saudagar Singh are real brothers. Apart from other things, the plaintiff-appellant is praying for a decree of injunction which results in stalling execution of the decree. It may be significant to note that Jagwant Singh also claims that he has purchased the property in a Court auction held in a decree for recovery of money against Saudagar Singh. The objections filed in execution of the

decree has been dismissed by the trial Court, affirmed by the First Appellate Court and further affirmed by this Court while deciding ESA No.48 of 2017 in a separate judgment passed today. Still further, once defendant No.1 is seeking possession pursuant to a decree for possession passed in his favour, hence, the plaintiff cannot be permitted to stall execution of a decree passed by a competent Court of jurisdiction. Still further, the trial Court after appreciation of evidence has found that the plaintiff is not in possession of the disputed land. The plaintiff in his cross-examination has specifically admitted that he tried to enter the purchased land pursuant to the sale certificate issued but he failed. He further went on to make a statement that at the time of filing of the suit, he does not know whether he was in possession of the suit land in the revenue record or not.

In view thereof, there is no ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

17.11.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No