

In the High Court of Punjab and Haryana at Chandigarh

RSA- 4986 of 2017(O&M)
Date of Decision: 20.2.2018

Ram Lal

---Appellant

versus

Bhoop Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. P.S.Jammu, Advocate
for the appellant

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts below whereby suit filed by the appellant/plaintiff for grant of injunction qua the suit house has been dismissed by the trial court and the judgment and decree passed by the trial court were affirmed in appeal.

Ram Lal son of Sh. Ladhu Ram prayed for grant of permanent injunction restraining Bhoop Singh and Ram Sawroop, his brothers from interfering into lawful ownership and possession of the appellant over the house in question as well as creating hindrance in reconstruction of damaged northern side wall of the house.

Counsel for the appellant has submitted that in a suit for injunction qua interference in possession, ownership of the suit property can neither be a subject matter of adjudication nor failure of the

appellant/plaintiff to prove ownership is sufficient to reject his claim for grant of injunction against forcible interference/dispossession. Another submission made by counsel is that real dispute between the parties is with regard to raising construction of wall on northern side which has fallen down.

The property in question measuring 10 marlas is situated within *lal lakir* of the village which was owned by father of the appellant and respondents namely Sh. Ladhu Ram. As per plea of the respondents, Sh. Ladhu Ram distributed 10 marlas of *gair mumkin* land amongst his four sons to the extent of 2½ marlas to each of them and the appellant raised construction of his house on 2½ marlas of land that came to his share but wants to grab possession of the area that had fallen to the share of respondents through process of the Court.

The courts below have consistently held that the appellant failed to establish his plea that entire 10 marlas of area has construction and is in exclusive possession of the appellant /plaintiff since the respondents are residing by constructing their houses in *dhanies*. Counsel for the appellant has failed to point out that findings recorded by the courts below with regard to failure of the appellant to prove his exclusive possession over 10 marlas of property are the result of misreading of evidence or failure to take into consideration any material evidence, in order to render the judgments perverse, thus, liable to be examined after hearing the other party. The appellant failed to adduce any evidence that entire 10 marlas *gair mumkin* property was given to him by his father Sh. Ladhu Ram. In this view of the matter, I do not find any reason to interfere in the concurrent findings recorded by the courts below in exercise of jurisdiction

under regular second appeal.

For the foregoing reasons, the appeal fails and is accordingly
dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

20.2.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No