

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 4536 of 2018(O&M)

Date of Decision: 2.8.2018

Parmjit Singh

---Appellant

versus

Vijay Parkash Bhambri and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. D.S.Gurna, Advocate
for the appellant**

Rekha Mittal, J.

CM No. 12044-C of 2018

Prayer in this application is for condoning delay of 21 days in
refiling the appeal.

Heard.

Allowed as prayed for. Delay of 21 days in refiling the appeal
stands condoned.

Disposed of accordingly.

RSA No. 4536 of 2018

The present appeal directs challenge against consistent
findings recorded by the courts whereby suit for permanent injunction
restraining the respondents-defendants from interfering or dispossessing
the appellant-plaintiff from house shown as green in the site plan attached,
detailed in head note of the plaint was dismissed by the trial court vide
judgment and decree dated 10.9.2015 and the appeal preferred by

unsuccessful plaintiff did not find favour with the Additional District Judge, Ludhiana.

The plea of the appellant-plaintiff is that the property shown as green in the site plan, situated within the lal lakir of village Bhadla Nicha, Tehsil Khanna District Ludhiana is the exclusive ownership, peaceful, continuous and uninterrupted possession of the plaintiff. He has spent huge amount on construction and development of the house. He uses the property for tethering cattle and storing fodder. The respondents-defendants have no right, title or interest in the property.

Counsel for the appellant would urge that a compromise dated 2.12.2006 (Ex. D2) was effected between the parties in the police station whereby the appellant undertook to vacate the property in question meaning thereby that possession of the appellant-plaintiff over the property in question is admitted by the contesting party. It is further argued that as the appellant is in established possession of suit property, defendants-respondents cannot recover the same except in due course of law.

I have heard counsel for the appellant, perused the paper book particularly the judgments impugned.

The trial court in para 12 of the judgment has taken note of vital facts elicited in cross examination of the plaintiff-appellant, Balbir Singh PW2 and Pal Singh PW3. The appellant, in his cross examination, had stated that there was only one room in the suit property but the same had fallen down in the year 2006-07 and this fact falsifies and belies his plea that he has spent huge amount in raising construction of the house in dispute. He further admitted that there is no boundary wall, gate and electricity connection in the suit property and the water connection has been

obtained during pendency of the suit. The aforesaid facts certainly indicate that the property is neither bounded nor has any construction. Indisputably, the appellant has not produced any evidence to prove his ownership of the property in question. Counsel has not disputed that tethering of cattle or storing fodder in an open area within the lal lakir of a village is not an evidence of possession that requires protection by issuance of injunction by the court. This apart, once the appellant has agreed to surrender possession of the property in view of compromise (Ex. D2), he is guilty of approaching the court for seeking equitable and discretionary relief of injunction in violation of the terms and conditions agreed between the parties. Analyzed from any angle, I do not find an error much less perversity in consistent findings recorded by the courts, warranting intervention.

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

(Rekha Mittal)
Judge

2.8.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No