

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

**RSA No.742 of 2017(O&M)
Date of Decision: 15.10.2018**

Umesh Kumar

.....Appellant

Versus

Union of India and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Parminder Singh, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. Plaintiff is in regular second appeal against the concurrent judgments and decrees passed by the Courts below in a suit for permanent injunction.

[2]. Plaintiff filed a suit for permanent injunction against the defendants i.e. functionaries of Northern Railway on the ground that plaintiff had purchased house measuring 50 sq. yards vide sale deed dated 21.05.2010 as detailed in para No.2 of the plaint. Plaintiff claimed himself to be in possession of the plot in question for the last about 15 years after paying full consideration to its vendor. Plaintiff alleged that defendants

wanted to demolish the house in question illegally on the ground that Railway Department was the owner of the suit property.

[3]. After completion of the pleadings, both the parties went to trial on the following issues:-

- “1. Whether the plaintiff is entitled to a decree for permanent injunction as prayed for? OPP*
- 2. Whether plaintiff has no locus standi to file the present suit? OPD*
- 3. Whether suit is bad for mis-joinder and non-joinder of necessary parties? OPD*
- 4. Whether plaintiff is estopped from filing the present suit by his own act and conduct? OPD*
- 5. Relief.”*

[4]. Plaintiff got examined himself as PW 1 and tendered copy of sale deed dated 21.05.2010 Ex.P1. Defendants examined Harpeet Singh, Senior Section Engineer, Northern Railway, Karnal as DW 1 and tendered documents viz. land plan (Ex.D1), copy of order dated 03.10.2011 (Ex.D2), copy of judgment dated 23.12.2009 (Ex.D3), copy of decree-sheet dated 23.12.2009 (Ex.D4) and attested copy of FIR No.44 (Mark -X). In rebuttal, plaintiff has placed on record documents in the shape of Ex.PX, Ex.PY, Mark-A to Mark F.

[5]. Both the Courts below have concurrently dismissed the suit.

[6]. Perusal of the record would show that earlier civil suit

was filed by Ramesh Kumar against General Manager, Northern Railway Board House, New Delhi. Ramesh Kumar was none-else but the father of the plaintiff/appellant. In the appeal filed before the Lower Appellate Court, father of the appellant withdrew the appeal with permission to file fresh suit on the same cause of action. The said permission was granted subject to payment of costs of Rs.1500/-. Father of the plaintiff did not deposit the costs and filed fresh Civil Suit No.358/2013, which was dismissed for want of payment of costs vide order dated 23.12.2009 and the same has attained finality. Both the Courts below have also found that title deed of the vendor has not been brought on record.

[7]. Since father of the plaintiff remained unsuccessful in the suit of like nature and the property involved is a Government property, therefore, appreciation of evidence done by the Courts below is not open for any re-appreciation that too, in the regular second appeal. The findings recorded by the Courts below cannot be said to be perverse or result of misreading of evidence. No law point worth consideration is involved in the present appeal. The same is accordingly dismissed in *limine*.

[8]. Since the main appeal has been dismissed on merits in *limine*, therefore, there is no necessity to pass any order in the applications for condonation of delay and stay. The same are

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accordingly disposed of.

October 15, 2018

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Whether reportable

Yes/No

Yes/No