

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

RSA No.1661 of 1988 (O&M)

Date of decision:03.04.2019

Niranjan Singh

... Appellant(s)

Vs.

Gurnam Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jagdeep S.Virk, Advocate
for the appellant.

Mr. Gaurav Chopra, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

The present regular second appeal is directed against the concurrent findings of fact and law whereby suit of the appellant-plaintiff for injunction seeking restraint against the respondent-defendants from forcible interference and dispossession in respect of house shown by words BRST as shown in the dotted line in the attached site plan, has been dismissed by the trial Court and affirmed in appeal.

It was alleged that plaintiffs had been in possession of the house shown by words ABCD for the last 20 years and and purchased some portion of the house marked by words ADCRST from Hari Singh, Harbux Singh and Gurbux Singh sons of Santa Singh and further purchased the disputed portion as shown by words BRST from Gurbux Singh son of Santa Singh. The plaintiffs raised the construction in the house 20 years back and

they were living in the house marked with letters ABCD for the last 20 years. The defendants tried to forcibly dispossess the plaintiffs, despite repeated requests refused to do so, thus, necessity arose to file the suit.

The defendants opposed the suit by raising various preliminary objections. On merits, it was submitted that plaintiffs were not in possession of the house in dispute and denied that plaintiffs purchased some portion of the house shown by words ADCRST from Hari Singh. It was also denied that disputed portion was purchased by the plaintiffs from Gurbux Singh, who was the owner of 6 marlas of land out of the property shown by words ABCD towards the eastern side measuring about East and West 13 karams and North and South 4 ½ karams. As per the sale dated 18.2.1986, Gurbux Singh through his attorney Gurnam Singh-defendant no.2 sold the house to Jagtar Singh defendant no.1 for a sum of Rs.2000/-.

Since the parties were at variance, the trial Court framed the following issues:-

- “1. Whether the plaintiffs are in possession of the site in dispute as per bonafide purchaser from Gurbux Singh?OPP*
- 2. Whether the plaintiffs are entitled to the relief of injunction prayed for?OPP*
- 3. Relief.”*

The plaintiffs in support of the pleadings examined four witnesses and brought on record Ex.P1, site plan and Ex.P2, agreement. On the other hand, defendants examined five witnesses and brought on record the sale deed, aforementioned as Ex.D1.

Mr. Jagdeep S. Virk, learned counsel appearing on behalf of the appellant submitted that possession was sought in respect of area whereby defendant no.2 had entered into agreement to sell Ex.P2. Defendants had not been able to prove the possession. Both the Courts below erroneously dismissed the suit by misreading the documentary evidence on record.

Per contra, Mr. Gaurav Chopra, learned counsel appearing on behalf of the respondents submitted that in fact, the plaintiffs miserably failed to prove the possession of the portion as vide sale deed, Ex.P2, the property was sold by defendant no.1 in favour of defendant no.2 and thus, urged this Court for dismissal of the appeal as the findings of fact and law do not suffer from any illegality and perversity.

I have heard the learned counsel for the parties, appraised the judgments and decrees as well as record of the Courts below and of the view that following Substantial Question of Law arise for adjudication of the present appeal:-

“Whether the plaintiffs in the absence of title had been able to prove the long and settled possession enabling them to seek injunction?”

No documentary evidence i.e. jamabandis and khasra girdawaris brought on record establishing the alleged possession. The agreement to sell does not confer the title. The plaintiffs miserably failed to prove that defendant no.2 had entered into agreement to sell and were put into possession whereas on the other hand, defendants brought on record the sale deed dated 18.02.1986 allegedly executed by defendant no.1 through

attorney in favour of defendant no.2.

The findings of fact and law cannot be said to be suffering from illegality and perversity. The substantial question of law, aforementioned is answered in favour of the respondents and against the appellants. Interim order dated 23.06.1988 is hereby vacated

Resultantly, the regular second appeal is dismissed.

April 03, 2019

savita

(AMIT RAWAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No