

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

**Regular Second Appeal No. 2469 of 1998 (O&M)
Date of Decision: May 02, 2019**

Municipal Committee

.....APPELLANT

VERSUS

Rattan Singh

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. P.K.Mutneja, Advocate
for the appellant.

Mr. Shailender Jain, Senior Advocate with
Mr. Harman Jivtesh Singh, Advocate
for the respondent.

SURINDER GUPTA, J.(Oral)

Heard.

Learned counsel for the respondent submits that the plaintiff has only sought relief of injunction with the plea that he is in possession of the suit property and respondent/appellant be restrained from interfering in his possession except in due course of law. He has no objection if the judgment and decree passed by the Courts below is modified to the extent that the relief of injunction allowed by the Courts below be maintained and set aside qua the relief that he is owner of the suit property.

Learned counsel for appellant while not challenging the decree of injunction as allowed by the Court below has argued that both

the Courts below have declared the plaintiff owner of suit property despite there being no evidence on file to this effect.

The plaintiff/respondent had filed suit for injunction to restrain the appellant from interfering in his possession and also claimed his title over the suit property. The Courts below have recorded the findings that the appellant is owner in possession of the suit property bearing khasra No. 2608 which as per copy of Jamabandi is abadi deh and plaintiff is nowhere recorded as owner in possession of that property.

In view of submissions of learned counsel for parties, this appeal is partly accepted and judgment and decree passed by the Courts below is modified as follows:

“the suit of the plaintiff is decreed for permanent injunction restraining the defendant/appellant from interfering in possession of the plaintiff over the suit property except in due course of law.”

Remaining relief as allowed by Courts below, while decreeing suit of plaintiff are set aside.

May 02, 2019.
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***