

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

-.-

RSA 3768 of 2012 (O&M)

Date of decision: 22.11.2019

Dhan Singh

.....Appellant

Versus

Rambir and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. B B Sharma, Advocate
for the appellant

Mr. Keshav Partap Singh, Advocate
for respondents 2 to 7

-.-

Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for permanent injunction restraining the respondents/defendants from interfering in peaceful and continuous possession of the appellant over suit property marked by letters 'ABCDEFGH' in the site plan and detailed in para no. 1 of the plaint was dismissed by the trial Court vide judgment and decree dated 30.08.2006 and findings recorded by the trial Court were affirmed in appeal by the Additional District Judge, Palwal vide judgment and decree dated 24.12.2011.

The plea of the appellant/plaintiff is that he is exclusive owner and in possession of suit property which was earlier owned and possessed

by his forefathers. There is pucca room, tin-shed, chapper, hand-pumps, khors, bitoras, gobar khad gadda, keekar trees and residence of the appellant in the suit property since time immemorial to knowledge of respondents/defendants as well as other inhabitants of the village/locality.

The respondents/defendants raised preliminary objections and controverted the allegations with regard to the appellant being owner and in possession of the suit property with the averments that boundaries and dimensions of the suit property have not been correctly mentioned in the plaint. It is pleaded that the respondents are owners in possession of the suit property and barbed wire has been erected by them. The plaintiff is not residing in the suit property nor he has raised the alleged construction over the suit property.

The trial Court, in para 12 of the judgment, has held that the appellant/plaintiff failed to prove identity of the disputed land as there is serious contradiction qua dimensions of the suit property reflected in the site plain Ex.P1 and site plan prepared by the local commission, appointed by the Court. It was further noticed that the appellant has admitted in cross examination that the respondents/defendants are in possession of the suit land and he does not have any record in his favour pertaining to the land in dispute.

The Presiding Officer of the appellate Court personally visited the spot on 20.12.2001 and recorded its findings based upon evidence and facts noticed on personal inspection.

Counsel for the appellant has failed to advance any argument to make out a case that concurrent findings recorded by the Courts are not

based upon correct appreciation of material on records or the Courts have failed to take into consideration evidence that has material bearing on adjudication of warring claims of the parties to render the findings erroneous/perverse. That being so, there is no justification for interference in consistent factual findings.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs. As the appeal has been decided on merits, application for condonation of delay in refiling the appeal is of academic relevance only.

(Rekha Mittal)
Judge

22.11.2019
Mohan Bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No