

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

**RSA No.5640 of 2016 (O&M)
Date of decision:06.02.2019**

Rajinder Kumar

... Appellant

Vs.

Gram Panchayat village Dhamtan Sahab

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.K.Jain, Advocate with
Mr. Deepak Jain, Advocate and
Mr. Amit Kumar Jain, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The present Regular Second Appeal is directed against the concurrent findings of fact and law whereby the appellant-plaintiff has not been able to claim the injunction against the Gram Panchayat from forcible interference and possession.

It was alleged that plaintiff was in possession of the house and in front of his house, there were two plots which were in possession. Since there was threat of forcible interference, cause of action accrued to file the suit.

The defendant-Gram Panchayat contested the suit and alleged that property was of Gram Panchayat and disputed the possession of the plaintiff. Alongwith suit, interim application was filed and even the Local Commissioner was also appointed.

On examination of the evidence brought on record, the trial Court dismissed the suit and affirmed in appeal.

Mr. S.K.Jain, learned counsel appearing on behalf of the appellant-plaintiff submitted that once it has been proved on record that plots were adjacent to the house of the appellant-plaintiff, possession is deemed, to be admitted of the person having the house nearby. The trial Court focused that it was a suit only for declaration qua title. There was no point of consideration to examine the ownership of the property. A person who is in long and settled possession can always be protected except dispossession, in accordance with law, therefore, there is an abdication.

I have heard the learned counsel for the appellant-plaintiff, appraised the judgments and decrees as well as record of both the Courts below and of the view that there is no force and merit in the submissions of Mr.Jain, for, report of the Local Commissioner dated 09.11.2010 revealed that on the maujada plot, on one side, there was a chaupal, one electric transformer, one tree, some broken bricks and concrete. The photographs shown to this Court during the course of hearing do not establish the possession of the plaintiff. I am afraid, the photographs would not help as the photographs are of the open area and behind that there is a gate showing entrance to the house from the back side. Even a person who is standing, is the back side of the house and thus, cannot be stated to be in possession. A chaupal where people of the area sit is on the left hand side of the house which cannot be said to be in possession of anyone as it is vacant land. Since the appellant-plaintiff has failed to establish the possession and

ownership, the injunction could not have been granted.

For the reasons aforementioned, there is no illegality and perversity in the judgments and decrees under challenge, much less no substantial question of law arises for adjudication of the present appeal.

The regular second appeal is dismissed. Consequently, the applications bearing Nos.12443-C of 2018 and 57-C of 2019 for additional evidence are also dismissed.

February 06, 2019

savita

Whether Speaking/Reasoned

Whether Reportable

(AMIT RAWAL)

JUDGE

Yes/No

Yes/No