

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

RSA No.5878 of 2015 (O&M)

Date of decision:03.04.2019

Ram Singh and another

... Appellants

Vs.

Chandni and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Palak Jain, Advocate for
Mr. Rajat Gautam, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The present regular second appeal is directed against the concurrent findings of fact and law whereby suit of the appellant-plaintiffs seeking injunction against the defendants for forcible interference and dispossession, has been dismissed and affirmed in appeal.

The plaintiffs alleged that they are the co-owners of the suit property and had been in possession since long. The gair mumkin plot situated on the eastern side of the disputed property belonging to the defendants was acquired by the State Government for the purpose of raising construction of road but the defendants under that garb wanted to dispossess the plaintiffs.

The defendants contested the suit and raised numerous

preliminary objections. On merits, it was asserted that defendants no.1 to 3 are in joint owners in possession of plot measuring 1 kanal comprised in khasra no.157 and also set up the counter claim by way of mandatory injunction seeking possession after removal of the illegal encroachment.

The plaintiffs examined three witnesses and brought on record Ex.P1 to Ex.P5 whereas defendants examined four witnesses and brought on record Ex.D1 to Ex.D12.

Ms. Palak Jain, learned counsel appearing on behalf of the appellants submitted that filing of the counter claim tantamounts to admission of the possession of the plaintiffs. In such circumstances, perpetual injunction, qua forcible interference could not have been declined. There is mis-reading of the jamabandi/revenue record.

I have heard the learned counsel for the appellants, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Ms. Palak, for the simple reason that jamabandi brought on record reflected the acquisition of the land for the purpose of construction of road and do not reveal the plaintiffs to be owners along with defendant no.1. The defendants also failed to place on record any demarcation report to prove the alleged encroachment.

The findings of fact and law cannot be suffering from illegality and perversity, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

April 03, 2019
savita

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