

RSA No. 1043 of 2018 (O&M)

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

RSA No. 1043 of 2018 (O&M)

Date of decision: 14.11.2019

Swaran Singh

... Appellant

Versus

**Gram Panchayat, Village Jande Sarai, Tehsil and District Jalandhar
and others**

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Sandeep Arora, Advocate,
for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiff was dismissed by the trial court, vide judgment and decree dated 27.01.2017 and as even the appeal preferred against the said decree failed and was dismissed on 3.8.2017, he is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for injunction restraining the defendants from causing interference in his peaceful and lawful possession over the suit property measuring 5 kanals 2 marlas, mentioned in the sale deed dated 13.5.1999, comprised in specific khasra numbers depicted in the cause title of the plaint, and also land measuring 4 kanals 0 marla, mentioned in sale deed No. 430 dated 24.9.1990, situated in village Jande Sarai, Tehsil and District Jalandhar.

In brief, the case set out by the plaintiff was that he was owner and in cultivating possession of the suit land. But, as the defendants were

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interfering in his peaceful possession, thus the suit.

In the separate written statements filed by the defendants, it was pleaded, *inter alia*, that suit filed by the plaintiff was not maintainable, as he had not approached the Court with clean hands. The present suit was a counter-blast to the petition filed by defendants under Sections 4 and 5 of the Punjab Public Premises Act. It was further stated that jurisdiction of the court was barred by Section 13 of the Punjab Village Common Lands Act. The sale deed upon which claim of the plaintiff was predicated was alleged to be illegal, null and void, and not binding on the rights of the defendants. Further, defendant No.1, i.e. Gram Panchayat, was an elected body of which defendant No.2 was Sarpanch and proper procedure to seek ejectment of the plaintiff had already been initiated. Thus, the suit was liable to be dismissed.

Upon consideration of the matter in issue and evidence on record, both the courts concurrently concluded that plaintiff failed to lead any evidence to show that there, indeed, was any threat of dispossession or defendants ever attempted to interfere in his possession. On the contrary, defendants produced on record Misl Haqiyat (Ex.D3), which depicted that suit property was controlled and managed by Panchayat, for it was Mustarka Malkan. There could not be any dispute either that management and control of the land, i.e. Jumla Malkan, rest with the Gram Panchayat. Not just that, in the Misl Haqiyat (Ex.D3) name of the Gram Panchayat was reflected in the column of possession. Concededly, ejectment proceedings against the plaintiff had since been initiated by the defendants before the DDPO-cum-Collector, Jalandhar. None other than the plaintiff himself conceded that he was participating in the said proceedings. Thus, the defendants had adopted due course of law to evict the plaintiff from the suit property. Hence, the

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injunction prayed for on the alleged threat of dispossession was wholly misconceived.

Upon being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the courts. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

November 14, 2019

AK Sharma

Whether speaking / reasoned:

YES

Whether Reportable:

YES/NO