

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 106

Case No. : RSA No. 2323 of 2017 (O&M)

Date of Decision : August 20, 2019

Niranjan Singh (since deceased)
through his LRs Appellant(s)

vs.

Gurcharan Singh Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Satbir Rathore, Advocate
and Mr. Chander Kant Rana, Advocate
for the appellant(s).

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DEEPAK SIBAL, J. (Oral) :

Niranjan Singh – predecessor of the appellants filed a suit seeking therein to injunct the respondent from interfering in his peaceful possession over the property detailed and described in the head note of his plaint (for short – the suit property).

The case set by the plaintiff – Niranjan Singh was that the suit property was owned by Sardara Singh, who was the father of the parties. Though Sardara Singh died three years prior to the filing of the suit, mutation of the suit property continued to be in his name. According to Niranjan Singh, Sardara Singh used to reside with him and since he had given some other property to the respondent, Sardara Singh gave the suit property to him to the exclusion of the respondent. He thus claimed that the respondent had no right, title or interest in the suit property and was

wrongly trying to dispossess him from the same.

On being put to notice, the respondent, who was the sole defendant in the suit, appeared before the Trial Court and denied the possession of Niranjana Singh over the suit property. He submitted that Sardara Singh used to reside with him and it was he who served him till his death. He further submitted that Sardara Singh's last rites were also performed by the respondent and that Sardara Singh had willed his entire property to him.

The Trial Court after sifting the evidence led by both the parties and considering the arguments raised by their respective counsels, dismissed Niranjana Singh's suit. An appeal preferred by the successors of Niranjana Singh/appellants was also dismissed by the First Appellate Court occasioning the filing of the present Regular Second Appeal.

Learned counsel for the appellants has been heard.

To seek injunction, Niranjana Singh was required to prove his possession over the suit property. However, no revenue record was produced by him to show that he was in possession of the suit property. The revenue record, which did come on the record, depicted Sardara Singh to be owner in possession of the suit property.

Even the oral evidence produced by Niranjana Singh is not worthy of any credence. Admittedly, the two witnesses produced by him were interested witnesses as they had even previously been produced by him as his witnesses in another suit. Even otherwise, their statements are vague as they do not give exact dimensions of the suit property. They also do not

Niranjan Singh had sought to build up his case on the strength of the fact that the suit property had been mortgaged by his father and that the same had been redeemed by him. However, no document in this regard was produced by him. He did not even plead this fact.

Niranjan Singh also did not prove that his father used to reside with him. Admittedly, Niranjan Singh was an ex-serviceman and while in service, he would had been posted in different parts of the country. Neither the date of his retirement nor the date when his father started to reside with him were provided by Niranjan Singh.

In view of the above, the case sought to be set up by the appellants has rightly been rejected by both the Trial Court as also the First Appellate Court. The concurrent findings of fact returned by both the courts warrant no interference.

No question of law much less any substantial question of law is also found to arise in the present second appeal.

Dismissed.

(DEEPAK SIBAL)
JUDGE

August 20, 2019
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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>