

RSA No. 51 of 2018

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

**RSA No. 51 of 2018
Date of decision: 06.11.2019**

Balwan Singh

... Appellant

Versus

Parveen Singh Katoch

... Respondent

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

Present: Mr. Vishal Aggarwal, 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 04.11.2016, and as even the appeal preferred against the said decree failed and was dismissed on 19.5.2017, 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 defendant from causing interference in his possession or encroaching upon the suit land measuring 1 kanal 3 marlas, comprised in specific khasra numbers as depicted in the cause title of the plaint, situated in village Napwal, District Pathankot.

In brief, his case was that the suit land was Jumla Malkan Wa Digar Haqdarani Aaraji Hasab Rasad Rakba, and his grandfather was owner/co-sharer in the said land. But as the defendant, who was an absolute stranger to the suit property, threatened to interfere in his possession, thus

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the suit.

In the written statement filed by the defendant, it was pleaded, *inter alia*, that defendant happened to be Sarpanch of the village. Plaintiff was in unauthorised possession over the suit land which vests in the Gram Panchayat. Further, for he never paid even a single penny to the Gram Panchayat towards rent, the eviction proceedings were being initiated against him, as per law. Thus, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the courts concurrently concluded that even though the plaintiff had set up a title in himself qua the suit property, but he failed to prove that he was the owner. No doubt, the jamabandi for the year 2010-11, showed plaintiff to be in possession of the suit property and khasra girdawari for the year 2014-15 revealed that suit land was owned by Jumla Malkan. However, the evidence on record proved that plaintiff was in illegal and unauthorised possession, and the eviction proceedings were initiated against him by the Gram Panchayat. Significantly, the plaintiff had not impleaded the Gram Panchayat as party, but only the defendant (Parveen Singh Katoch), who happened to be the Sarpanch. Nothing was brought on record either to show if the defendant, in his personal and individual capacity, ever interfered or even threatened to interfere in his possession. Further, a suggestion was put to him that present suit was filed against him in his individual capacity. Once the plaintiff failed to prove any threat of illegal dispossession by the defendant or any overt act at his end to interfere in his possession, plaintiff was not entitled to injunction. Upon being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the findings recorded by both the courts were either contrary to

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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 06, 2019

AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	YES/NO