

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

**RSA No.6360 of 2018 (O&M)
Date of decision: 12.12.2019**

Sukhwant Singh

.....Appellant

Versus

Balraj Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikas Gupta, Advocate,
for the appellant.

Ritu Bahri, J.

This appeal has been filed against the judgment dated 22.02.2018 passed by the Additional District Judge, Tarn Taran, dismissing an appeal filed by plaintiff-appellant (hereinafter referred to as 'the plaintiff') against the judgment and decree dated 26.08.2016 passed by the Civil Judge (Junior Division), Patti, whereby suit filed by him (plaintiff) for permanent injunction, has been dismissed.

Sukhwant Singh-plaintiff (appellant) filed a suit seeking relief of permanent injunction, alleging therein that he was owner in possession over the suit land, situated in village Bhikhiwind, Tehsil Patti, District Tarn Taran. As per plaintiff, initially, the property in dispute was ownership of Maggar Singh son of Buta Singh son of Kishan Singh, who sold land measuring 5 Marlas, out of the suit property, to him for a sale consideration of Rs.16,000/-, vide registered sale deed dated 15.03.1994. Thereafter, he filled foundations over the said property. Defendants are neither in possession nor have any right over the suit property, but they are threatening

to dispossess the plaintiff illegally and forcibly. Hence, the suit.

Upon notice, defendants appeared and filed written statement taking preliminary objections with regard to maintainability of the suit, suppression of material facts etc. On merits, execution of the sale deed in favour of plaintiff was denied. It was submitted that defendant No.1 and Joginder Pal were owners of the plot, who have amalgamated the plots with each other and have constructed boundary thereon. They have also constructed rooms and installed electricity connection and bore etc. In fact, one Jasbir Kaur wife of Gurmej Singh had purchased land measuring 16 Marlas from Lakhwinder Singh, Kulwant Kaur and Nazar Singh vide registered sale deed dated 09.10.2003. Thereafter, she sold land measuring 16 Marlas to defendant No.1-Balraj Singh vide sale deed dated 22.09.2010 for a consideration of Rs.8,80,000/-. Possession of the land was also delivered to Balraj Singh and thereafter, he continued to be in possession of the said land. Mutation, on the basis of above sale deed, has also been sanctioned in the name of defendant No.1. Similarly, one Madhu Bala wife of Krishan Ghaniya sold land measuring 9 Marlas in favour of Joginder Pal son of Lakhmi Chand vide registered sale deed dated 05.04.2013 for consideration of Rs.6,75,000/- and gave possession of the said land to the vendee. Thereafter, defendant No.1 and Joginder Pal amalgamated the plots with each other and constructed four walls. They have also installed bore, electricity and constructed two rooms thereon. All other averments made in the plaint were denied and prayer for dismissal of the suit was made.

From the pleadings of the parties, following issues were framed:-

1. Whether the plaintiff is entitled to permanent injunction as prayed for? OPP

2. Whether the present suit is not maintainable in the present form? OPD
3. Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD
4. Whether present suit of the plaintiff is not properly valued for the purpose of court fees and jurisdiction? OPD
5. Relief.

After going through the evidence led by both the parties, trial Court dismissed the suit. Appeal against the said judgment also met the same fate.

Heard.

Both the Courts have given a concurrent finding of fact that onus to prove that plaintiff was in possession of the suit property, was on the plaintiff himself. During his cross-examination, plaintiff stated that he had purchased the land measuring 5 Marlas, but failed to tell the location of plot. He has also admitted that he has not constructed any room over the suit property nor he has taken any electricity connection for the same. He also admitted that he had not paid any property tax qua the said plot. He further admitted that defendants were in possession of 05 Marlas of land. In view of the admission of plaintiff that he was not in possession of 05 Marlas of land, his suit has been dismissed by both the Courts below. Moreover, witnesses of the plaintiff have also admitted that plaintiff was not in possession over the suit property.

After going through the impugned judgments, this Court is of the view that plaintiff has failed to lead any evidence that actually, he was in possession over the suit property. Since, his possession was not proved,

relief of permanent injunction could not be granted in his favour. In the absence of any cogent and convincing evidence, suit of the plaintiff has been rightly dismissed by both the Courts below. Evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration.

Resultantly, finding no merits, present appeal is dismissed.

(RITU BAHRI)
JUDGE

12.12.2019
ajp

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No