

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

RSA No.6401 of 2018(O&M)
Date of decision: 17.10.2019

Jeet singh @ Ajeet Singh

... Appellant

Versus

Shamsher Singh and another

... Respondents

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

Present: Mr. Sanjiv Kumar Aggarwal, Advocate,
for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the appellant-plaintiff was dismissed by the trial Court vide judgment and decree dated 28.10.2015. And as even the appeal preferred against the said decree failed and was dismissed by the appellate Court on 23.10.2017, 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 a decree for injunction restraining the defendants from causing interference in his peaceful possession over the suit property, comprised in Khasra No.14/1/2, Rect. No.85. The case set out by him was that he was in possession of the disputed property as lessee and the defendants had no right, title or interest therein. But as the defendants attempted to dispossess the plaintiff, thus, the suit.

In the written statement filed by the defendants, the possession of the plaintiff over the suit property was denied. In fact, the plaintiff had shifted to Uttar Pradesh 30 years ago and thereafter he never returned. It was

maintained that the present suit was got filed by some property dealers to blackmail the defendants.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that jamabandi for the year 1981-82 showed Chanchal Singh and Jit Singh as lessees, and again jamabandi for the year 1986-87 showed Jit Singh, Jeet Kaur, Mahinder Kaur, son and daughters of Gainda Singh as lessees over the suit land, and so was the position for the year 2011-12. However, plaintiff failed to adduce any cogent evidence to show that he indeed has been in actual physical possession of the suit property. Needless to assert that to succeed or to claim injunction, he was required to establish his possession, whereas he conceded in his statement that he along with his father had shifted to Uttar Pradesh in 1984 itself. Though he claimed to be in possession of the suit property as a lessee, but nothing was brought on record to show if he was cultivating the suit land or was paying any *batai* or *chakota*. In fact, his own version was that he leased out the suit property to Khajan Singh for Rs.5000/- per annum. Further, Avtar Singh, Balkar Singh, Balvinder Singh sons of Jeet Kaur, who happened to be the sister of the plaintiff, Baljinder Kaur, Malkit Kaur daughters of Jeet Kaur, and Mahinder Kaur daughter of Gainda Singh, had filed a similar suit against Shamsher Singh (defendant No.1), which was dismissed. Though in appeal preferred against the said decree, the matter was compromised and the appeal was dismissed as withdrawn vide order Ex.D6. In fact, in terms of compromise Ex.D7, the plaintiffs in those proceedings had relinquished their rights in the suit property and conceded the defendants as owner in possession. That being so, both the Courts

concluded that entries reflected in jamabandies relied upon by the plaintiff did not reflect the true position and, thus, were wrong.

On being pointedly asked, learned counsel for the appellant failed to refer to anything on record to show if the conclusions recorded by the Courts were either contrary to 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

17.10.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO