

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

**RSA No.848 of 2018
Date of Decision : 15.10.2019**

Dilbagh Singh since deceased through his LR

.....Appellant

Versus

Harinderpal Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Mukesh Kumar Bhatnagar, Advocate for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the plaintiff-appellant was dismissed by the trial Court vide judgment and decree dated 23.01.2015 and as even the appeal preferred against the said decree failed and was dismissed on 09.09.2017, 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 possession over the suit property bearing khasra No.96/11 and 96/12, situated at village Nangli and shown in red colour in the site plan appended with the plaint.

In brief, the case set out by him was that he was inducted as tenant by Jaspal Singh brother of defendant No.1 on 01.02.2010 @ Rs.500 per month. He constructed the site and even obtained a water connection in his name and applied for electric connection. However, defendant No.1 in connivance with defendant No.2 who alleged to be son-in-law of Rakesh Tiwari and Santosh Tiwari maintained that the deceased (Rakesh Tiwari

and Santosh Tiwari) were the owners of the property whereafter his wife had become the owner thereof. For, defendant No.1, threatened to dispossess the plaintiff, thus the suit.

Upon consideration of the matter in issue and the evidence on record both the Court concurrently concluded that limited issue required to be determined was: if the plaintiff was in possession of khasra Nos.96/11 and 96/12. Particularly when defendant No.2 had objected to the rent note propounded by the plaintiff and maintained that no person in the name of Jaspal Singh, much less being brother of defendant No.1 exists. In order to establish his possession the plaintiff had placed on record the alleged rent note dated 01.02.2010, water supply bills Ex.P2 to Ex.P7, receipts regarding payment of rent Ex.P8 to Ex.P31 as also photographs Ex.P34 to Ex.P40. However, on analysis of the said evidence revealed that in the rent note dated 01.02.2010 surroundings of the suit property qua which the injunction was being prayed were not clearly depicted. Although, on the Eastern side the suit property was alleged to be bounded by street and on the West side with the property of Charan Singh. However, there was nothing mentioned as regards the boundaries on Northern and Southern sides and the only expression used was “ownership of others”. Although plaintiff claimed rent note was executed qua the property comprised in khasra Nos.96/11 and 96/12 but no evidence was brought on record to show if the suit property was owned by Jaspal Singh. Likewise, the water supply bills and the receipts brought on record by the plaintiff were inconsequential as there was nothing on record to connect those with the suit property. In fact, in bills Ex.P7, the address mentioned is four

Dashmesh Nagar which could not be connected with the property in question. Similarly, the plaintiff proved the site plan on record but again in the absence of any evidence qua identification of the property it could not be linked with the property in question. That being so, the only and the inevitable conclusion that could be reached: the plaintiff failed to connect the evidence brought on record with khasra Nos.96/11 and 96/12, and thus, his claim remained unsubstantiated.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions recorded by both the Courts 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 below. The appeal being devoid of merit is accordingly dismissed.

15.10.2019

*Manoj Bhutani***(ARUN PALLI)**
JUDGEWhether speaking/reasoned
Whether reportableYes/No
Yes/No