

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

RSA-3650-2018 (O&M)
Date of decision : 13.02.2020

Surinder Pal

...Appellant

Versus

Jaswinder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Lath, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM-9482-C-2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 79 days in refiling the present appeal is condoned.

Application is allowed.

Main case

The plaintiff-appellant has filed Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit filed with following prayer:-

“Suit for Permanent Injunction Restraining the defendants from creating any type of hindrance in the user or in the possession of the plaintiff over his ancestral abadi plot measuring 40' X 22' bounded as :-

South: Plot & House previously owned by plaintiff sold to defendant No. 2 who further sold to defendant No. 1 Bahi 22'

East: House and vacant plot of deceased Krishan Pal sold to Jagir Singh ex Sarpanch Bahi 40'

West: Residential house of Pirthi Chand Bahi as the part of the plaint) and further restraining the defendants from illegally and forcibly dispossessing the plaintiff from his ancestral abadi plot measuring 40' X 22' as shown Red in the site plan and further restraining the defendants from raising any type of construction over the above said ancestral plot and further restraining the defendants from alienating the above said plot by way of Sale, Gift, Mortgage, Transfer or in any other manner, situated within the Abadi of village Rurka, Tehsil and District SAS Nagar, Mohali.

Under Order 7 Rule 1 Civil Procedure Code.”

Learned counsel for the appellant contends that by writing dated 30.08.2004, the agreement was executed by the plaintiff in favour of defendant No.2 with respect to plot measuring 80' x 22'. He further submits that without any title, defendant No.2 executed a registered sale deed in favour of defendant No.1 with regard to a plot more than agreed to be sold. Hence, he submits that defendant No.2 had no right, title or interest in at least transferring the plot beyond what was agreed to be sold by the plaintiff in favour of defendant No.2.

On being pointed out that the present suit is only for grant of permanent injunction, learned counsel for the appellant on realizing his difficulty, came up with prayer that he may be permitted to withdraw the

present suit with liberty to file appropriate suit before the competent Court of jurisdiction.

Keeping in view the aforesaid facts, the plaintiff is permitted to withdraw the suit with liberty to file fresh one.

Since, this order has been passed without issuing notice to the defendants, therefore, they shall be at liberty to move an application for recall, if the facts are otherwise.

In view of the above, the present Regular Second Appeal is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

13.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No