

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

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**RSA No.2573 of 1989 (O&M)
Date of Decision: 26.04.2022**

Mohan Singh

....Appellant

VERSUS

Dalbara Singh and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Chanakya Batta, Advocate for the appellant.

Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate for the respondents.

ALKA SARIN, J.

The present regular second appeal has been filed by the defendant-appellant challenging the judgements and decrees dated 13.06.1988 and 16.10.1989 passed by the Trial Court and the lower Appellate Court, respectively whereby the suit for permanent injunction filed by the plaintiff-respondent no.1 has been decreed.

The brief facts relevant to the present *lis* are that the plaintiff-respondent no.1 filed a suit for permanent injunction for restraining the defendant-appellant from dispossessing him from the suit land except in due course of law. According to the plaintiff-respondent no.1 he had been cultivating the suit land as tenant under Atma Singh since 1972 and that the defendants had purchased some share of the land owned by Atma Singh and were bent upon to forcibly dispossess him from the suit land.

The claim of the plaintiff-respondent no.1 was resisted by the defendant-appellant by alleging that the plaintiff-respondent no.1 was neither a tenant nor in possession of the suit land.

The suit qua defendant-respondent no.2 was dismissed vide order dated 18.02.1987.

The following issues were framed for trial :

1. Whether the plaintiff is in possession of the suit land ? OPP
2. Whether the plaintiff is entitled to the injunction prayed for ? OPP
3. Relief.

Vide judgement and decree dated 13.06.1988 the Trial Court decreed the suit of the plaintiff-respondent no.1 and 2. The Trial Court found that the plaintiff-respondent no.1 was in possession of the suit land and thus decreed his suit. The defendant-appellant filed an appeal challenging the decree dated 13.06.1988 of the Trial Court. However, vide judgement and decree dated 16.10.1989 his appeal was dismissed. Hence, the present regular second appeal.

Learned counsel for the defendant-appellant has contended that the Courts below have erred in decreeing the suit of the plaintiff-respondent no.1 and in holding that the plaintiff-respondent no.1 was in possession of the suit land. According to counsel even the sale deeds in his favour mention that the possession was delivered by the vendors. It is further the contention that the revenue entries after the sale in favour of the defendant-appellant showed him in possession of the suit land.

Per contra, learned senior counsel appearing for the plaintiff-respondent no.1 argued that both the Courts below had rejected the stand

taken by the defendant-appellant and found the plaintiff-respondent no.1 in possession of the suit land. He argued that once it was proved that the plaintiff-respondent no.1 was in possession of the suit land he could only be dispossessed in accordance with law.

I have heard learned counsel for the parties and perused the record.

Both the Courts below have concurrently found that the plaintiff-respondent no.1 was in possession of the suit land. A reading of both the impugned judgments would make it crystal clear that each and every relevant aspect of the matter was duly considered and rightly appreciated by the Courts below before recording their findings. The defendant-appellant has not been able to point out anything on the record to displace the evidence led by the plaintiff-respondent no.1 regarding his possession over the suit land or that this possession was unauthorized. As noticed by the Trial Court, the defendant-appellant has not even brought on record and proved the sale deed in his favour. Findings recorded by the Courts below regarding possession are findings of fact. During the course of hearing, learned counsel for the defendant-appellant failed to point out any patent illegality or perversity in either of the judgments rendered by both the Courts below. He also could not refer to any question of law much less substantial question of law which arose in the present regular second appeal.

The defendant-appellant had to stand on his own feet and prove the case set-up by him. In the present case there is no credible evidence on the record to show that the defendant-appellant is in possession of the suit land.

No other point has been argued. No question of law, much less any substantial question of law, arises in the present case.

In view of the above, I do not find any illegality and infirmity in the judgments and decrees passed by the Courts below. The regular second appeal is, accordingly, dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

**(ALKA SARIN)
JUDGE**

26.04.2022
Yogesh Sharma

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO