

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

RSA No.1003 of 2020 (O&M)

Date of Decision: 18-05-2022.

Jagan Nath (Since deceased) through his LRs

....Appellants

Versus

Sukhdip Kaur & Others

....Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Rajan Bansal, Advocate,
for the appellants.

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MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment and decree dated 30.08.2018 as passed by learned Additional Civil Judge (Senior Division) Bathinda (for short 'the trial Court'), whereby Civil Suit No.165 of 2010 filed by appellant-plaintiff Jagan Nath (since deceased and now represented through his Legal Representatives including performa respondent No.5) against respondents No.1 to 4-defendants for seeking the decree for permanent injunction to restrain them (defendants) from interfering in his possession over the suit property and from raising any construction in the same, was dismissed and Civil Suit No.148 of 2010 preferred by the above-said respondents No.1 to 4-defendants against him (appellant) with a prayer for grant of permanent injunction to restrain him from interfering in their peaceful possession over the suit property was decreed as well as by the judgment and decree dated 07.12.2019 handed down by learned Additional

District Judge, Bathinda (for short ‘the lower Appellate Court’) whereby Civil Appeal No.303 of 2018 as filed by him (appellant) to challenge the judgment and decree passed by the trial Court in Civil Suit No.165 of 2010, was dismissed, he (appellant) has preferred the present appeal.

The appellant (plaintiff in Civil Suit No.165 of 2010) sought the relief of permanent injunction against respondents No.1 to 4-defendants while averring that he had purchased the suit property from Mohan Lal, Harbans Lal Jindal as well as from Shiv Kumar and Madan Gopal vide three different Sale Deeds but the defendants tried to demolish its boundary wall and to take its possession illegally and forcibly. Respondents No.1 to 4-defendants also filed Civil Suit No.148 of 2010 against the appellant for seeking the similar relief while pleading that Jaswinder Singh, the husband of respondent-plaintiff No.1, purchased the suit property from one Ramji Dass and he transferred a part of this property in her (plaintiff No.1’s) favour vide the Transfer Deed dated 08.03.2010 and sold the remaining part of the same to plaintiff No.2 and out of the portion so purchased by him, plaintiff No.2 further sold the land measuring 200 Sq. Yards, to plaintiffs No.3 and 4. It is worthwhile to mention here that both the above-mentioned suits were consolidated by the trial Court. The parties were put to the trial by framing the issues and they led their evidence, oral as well as documentary, in support of their respective contentions. After appreciating and evaluating their evidence and hearing their learned counsel, the trial Court decreed Suit No.148 of 2010 preferred by the present respondents No.1 to 4 and dismissed Civil Suit No.165 of 2010 filed by the appellant,

vide the impugned judgment and decree dated 30.08.2018. Appeal No.313 of 2018 preferred by the appellant against the judgment and decree passed by the trial Court in Civil Suit No.148 of 2010 was allowed whereas Civil Appeal No.303 of 2018 filed by him (appellant) to lay challenge to the said judgment and decree to the extent of the dismissal of Civil Suit No.165 of 2010, has been dismissed by the lower Appellate Court vide the impugned judgment and decree dated 07.12.2019.

I have heard learned counsel for the LR's of the appellant as well as for performa respondent No.5 in the present appeal and have also perused the file carefully.

Learned counsel for the LR's of the appellant and performa respondent No.5 have contended that the appellant had purchased the suit property, specified by the boundaries and dimensions in the sale deeds and he has been in exclusive possession thereof since then and therefore, he was entitled to protect his possession over the same even against the other co-sharers. To buttress his contentions, he has placed reliance upon the observations as made by the Single Benches of this Court in **Tara Chand and others vs. Siri Pal and others 2020 (1) RCR (Civil) 30** and **Beant Singh vs. Atma Singh 2016(5) RCR (Civil) 967.**

However, the afore-raised contentions are devoid of any merit because in Para No.23 of the impugned judgment dated 07.12.2019, the lower Appellate Court has categorically observed that the appellant had purchased 10/392 share, 8 ½ /392 share and 8 ½ /392 share in the joint khewat from Mohan Lal, Nathu Ram (Attorney of Shiv Kumar and Madan

Gopal) and Harbans Lal respectively and has further observed that there was nothing on the file to show that any partition had ever taken place between the parties and the co-sharers had been allotted any specific portions of the joint land and the possession had been delivered to them accordingly.

The appellant could have produced the copies of the relevant khasra girdawaries on the record to show that he or his afore-named vendors were recorded therein to be in settled exclusive possession over the suit property and the same could have clinched the entire matter in dispute between the parties but there is not even a whisper regarding any such document in the impugned judgments passed by the Courts below. It being so, mere mention of the boundaries of the property in the said sale deeds, as executed in favour of the appellant, does not suffice at all to substantiate the above-said fact. In these circumstances, the appellant, being a co-sharer, cannot seek the relief of permanent injunction against the defendants-co-sharers.

The observations made by the Single Benches of this Court in **Tara Chand and others (supra)** and **Beant Singh(supra)** are of no help to the appellant in the present case because in both the afore-cited cases, the co-sharer was held to be in exclusive possession over a part of the joint holding whereas, in the case in hand, the appellant has not been able to substantiate the above-referred fact, as discussed earlier.

As a sequel to the fore-going discussion, it follows that the impugned judgments and decrees as passed by the trial Court qua Civil Suit

No.165 of 2010 and by the lower Appellate Court in Civil Appeal No.303 of 2018 do not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the present appeal, being *sans* any merit, stands dismissed.

18th May, 2022
seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>