

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

RSA-3242-2010(O&M)
and
XOBS-7-C-2011 (O&M)
Date of decision: 01.08.2022

Ajaib Singh and others

....Appellants

Versus

Jarnail Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Bali, Advocate for the appellants

Mr. Jasbir Rattan, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. This order shall dispose of the Regular Second Appeal as well as the cross objections filed by the defendants.

2. Some facts are required to be noticed. The plaintiffs filed a suit for grant of decree of permanent injunction restraining the defendants from interfering into their possession. They claim to be the owners in possession of the residential house alongwith a courtyard located in the residential area of the Village. The defendants contested the suit while submitting that the property belongs to a Thakur Dwara, a religious organisation and the plaintiff has illegally encroached upon the property of the Thakur Dwara. The trial court, while appreciating the evidence, has culled out the following issues:-

“1. Whether the plaintiffs are owner possession of the plot marked as ABCDF shown in yellow colour in the site plan attached with the plaint?
OPP.

2. If issue No.1 is proved, whether the

plaintiffs are entitled for decree of permanent injunction?OPP.

3. Whether the suit is not maintainable? OPD.

4. Whether the plaintiffs have no locus standi and cause of action to file the suit? OPD.

5. Whether the Civil Court had no jurisdiction to entertain and try the present suit? OPD.

6. Whether the plaintiffs are estopped from file the present suit? OPD.

7. Whether the land in question is a land of Thakur Dwara Mandir? OPD.

8. Whether the suit is bad for non-joinder of necessary parties? OPD.

9. Relief.”

3. The trial court, while deciding issue no.1 and 2 assumes that only the possession of the plaintiffs is required to be adjudicated upon by the court. The court decreed the suit vide judgment and decree dated 15.09.2008. Defendant no.2 filed the first appeal, which has been partially accepted and the judgment and decree passed by the trial court has been modified while restraining the defendants from interfering into the possession of the plaintiffs over the suit property marked with letters ABCDEF and not to dispossess them except in due course of law.

4. Neither the plaintiffs nor defendants have produced any document of title of the property showing the ownership of the parties. Both the courts have found the plaintiffs to be in possession of the property, therefore, a limited relief of injunction restraining the defendants from forcibly dispossessing the plaintiffs has been granted.

5. Learned counsel representing the plaintiffs contends that the defendants have failed to produce any evidence by proving that the ownership of the property vests with Thakur Dwara. He submits that in

the absence thereof, the trial court has correctly decreed the suit.

6. On the other hand, the learned counsel representing the defendants claim that though the First Appellate Court has observed that the appeal is partly allowed. However, the findings on issue no.1 and 2 have not been modified.

7. It is well settled that the plaintiffs are required to stand on their own legs. It is the plaintiffs who came to the court claiming to be owners in possession of the aforesaid property. It was for the plaintiffs to prove the same. Once the plaintiffs fail to prove that fact, the First Appellate Court has correctly partly allowed the appeal. As far as the cross objections are concerned, it may be noted that once the Appellate Court has partly allowed the appeal, the findings on issue no.1 shall be deemed to have been modified, particularly, when the court has specifically found that the plaintiffs have failed to prove their ownership with regard to plot marked as ABCDEF.

8. Hence, no ground to interfere is made out.

9. Finding no merit, the Regular Second Appeal as well as the cross objections stand dismissed.

10. All the pending miscellaneous applications, if any, are also disposed of.

01.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)
JUDGE**