

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 823 of 2013 (O&M)

Date of Decision: 29.03.2022

Ashwani Kumar

... Petitioner(s)

Versus

Municipal Council, Jagraon, District Ludhiana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ajay Pal Singh Rehan, Advocate
for the appellant(s).

Mr. G.S.Attariwala, Senior Advocate
with Mr. Saurav Singla, Advocate
for the respondents.

Anil Kshetarpal, J.

1. While assailing the correctness of the judgment and decree passed by the First Appellate Court, the plaintiff has filed this appeal.

2. The plaintiff claims that he had purchased the suit property through the sale deeds dated 03.04.1980 and 30.12.1980, respectively. It is stated that the land is *shamlat deh mushtarka*. The Municipal Council defended the suit while claiming to be the owner of the property. The First Appellate Court, on appreciation of evidence, found that the plaintiff has failed to prove his ownership over the property.

3. In order to do justice, during the pendency of the appeal, a Local Commissioner was appointed, who was directed to get the plot demarcated, afresh, under his supervision, from the revenue official. A report has been submitted. It has been recorded that the plaintiff is the owner of the

land comprising khasra No. 2005/16.

3. Heard the learned counsel representing the parties and with their able assistance, perused the paper-book and the record of both the Courts below.

4. The learned counsel representing the appellant contends that the khasra No. 2005/16 is not owned by the Municipal Council. He submits that the plaintiff, being in possession, should be granted at least a decree of injunction from forcible dispossession. It would be noted here that the plaintiff filed a suit for declaration that he is a co-owner in the land measuring 22 kanals and 7 marlas and is in exclusive possession of the land measuring 3 marlas 10 biswasi. The plaintiff is to stand on his own legs. He did not pray for grant of decree for permanent injunction against the forcible dispossession. Whereas the plaintiff came to the Court claiming the ownership, but failed to prove the same. The suit, filed by the plaintiff, is required to be dismissed.

5. The plaintiff cannot be permitted to make out a new case for the first time, at the stage of regular second appeal,.

6. In view of the above, no ground is made out to interfere. Hence, the present appeal is dismissed.

7.. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 29, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No