

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

RSA-6017-2018 (O&M)

Date of decision: 31.03.2022

Amar Singh

....Appellant

Versus

Gurminder Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Sandhu, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

The appellant is a plaintiff in a suit for grant of decree of permanent injunction. He claims that he purchased a house from Gurmeet Singh in the year 2010 on payment of Rs.2,50,000/- out of which Rs.5,00,000/-. It is also his case that since he was not able to pay the remaining amount, therefore, he took the property on rent. The plaintiff also claims that while borrowing loan from Magma Fincrop Limited, he gave the original agreement to sell to the Finance Company. The defendant contested the suit while asserting that the plaintiff has no concern with the suit property. Both the courts have dismissed the suit as the plaintiff neither produced the agreement to sell nor produced any witness of the agreement to sell in order to prove the payment of rent. The plaintiff only relies upon alleged declaration by Gurmeet Singh Ex.PW2/G that he has no objection if the electricity connection is issued to the plaintiff.

Learned counsel representing the petitioner contends that although he does not have any document of title, however, he continues to be in possession.

In the present case, the plaintiff filed the suit with definite stand. In the first instance, he claims that he is owner and in the alternative, he took a stand that he is in possession of the property as a tenant. However, he has failed to substantiate any of them.

Learned counsel representing the appellant relies upon the judgment passed in '**Rame Gowda (D) by Lrs vs. Mr. Varadappa Naidu (D) by Lrs and Anr' 2004 (1) SCC 769**'. In that case a trespasser had sought injunction. In the present case, the plaintiff has filed the suit on the basis of his title or in the alternative, on the basis of tenancy. Since the plaintiff has failed to prove either of them, therefore, the judgment passed by the Supreme Court shall not be applicable. Even otherwise, the plaintiff is not entitled to injunction against a true owner.

Hence, dismissed.

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

31.03.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE