

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

RSA-781-2021 (O&M)

Date of decision: 12.09.2022

Bhupinder Singh

....Appellant

Versus

Jaspal Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Arora, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

While assailing the concurrent findings of fact arrived at by the courts below, defendant no.2 has filed the present appeal. The plaintiff's suit for grant of decree of permanent injunction, restraining the defendants from interfering into his peaceful possession, with respect to a plot measuring 13 marlas has been decreed by both the courts below. The plaintiff claims that he alongwith Jatinder Singh, purchased the property from Smt.Sudesh wife of Sh. Surinder Singh. Subsequently, vide sale deed dated 02.01.2013 Jatinder Singh transferred his share vide sale deed dated 20.10.2014 and thereafter, he became the exclusive owner in possession of the said property. Defendants while contesting the suit claimed that they have purchased the property on 20.02.1990 from Bawa Buta Singh, Bawa Prem Singh, Bawa Kuldip Singh and Bawa Ajit Singh. Both the courts have recorded the findings of fact that the sale deed dated 20.02.1990 does not relate to the suit property as not only the dimensions even the properties situated on all the four directions are different from the properties mentioned in the said sale deed.

Heard the learned counsel representing the appellant at length and with his able assistance perused the judgments passed by the courts below.

Learned counsel representing the appellant contends that the suit property and the property purchased by the plaintiff is different. He submits that the plaintiff while appearing in evidence has admitted that he is not in possession of the said property.

With the able assistance of the learned counsel representing the appellant, this Court has compared the boundaries of the property purchased by defendant no.2 as well as the plaintiff. Admittedly, defendant no.2 has purchased an entirely different property than the suit property itself. Undoubtedly, there is some variation with regard to the property in all the four directions. However, with the passage of time, the owners of the surrounding properties can change. In any case, once the appellant has failed to prove that he has purchased the suit property vide the sale deed dated 20.02.1990, he has no legs to stand.

The next argument of the learned counsel representing the appellant is also without substance because a small sentence in the cross-examination cannot be read in isolation from the entire deposition. The plaintiff while filing the suit has asserted himself to be the owner in possession. In his examination in chief, he has once again asserted that he is the owner in possession. Under the pressure of cross-examination some times the witness answers the question without understanding the intent with which it is asked or will affect the case. It is for this reason that it has been held while appreciating the evidence, the court is

required to read the complete deposition. On reading it wholly thereof, it is evident that the courts have correctly found that the plaintiff is entitled to a decree for permanent injunction.

Hence, dismissed.

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

12.09.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE