

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

RSA No. 357 of 2022 (O&M)

Date of decision: 27.01.2023

Ashok Kumar

..... Appellant.

Versus

Hansraj and another

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Suresh Kumar, Advocate, for the appellant.

ANUPINDER SINGH GREWAL, J. (ORAL)

The appellant has challenged the judgments and decrees of the Courts below whereby his suit for permanent injunction has been dismissed.

Learned counsel for the appellant submits that the appellant/plaintiff was in possession of the suit land which has been established from the report of the local commissioner and the site plan and, therefore, the suit ought to have been decreed.

Heard.

The appellant/plaintiff had filed a suit for permanent injunction restraining the respondents/defendants from interfering in his peaceful possession over the suit land as detailed in para No.2 and 3 of the plaint and marked by letters ABCD. The appellant/plaintiff has not been able to place on record any document or revenue record in support of his claim. The respondents/defendants, on the contrary, have proved the agreement to sell dated 27.07.2014 (Ex. D1) and 18.10.2014 (Ex. D2) whereby they had purchased the suit property from the original owners Ajay Raj Singh and others. The revenue record i.e. jamabandi for the year 2006-07 (Ex. D4) indicated the ownership and possession of Ajay Raj Singh and others. The

site plan (Ex. P1), which was marked by letters 'ABCD', has been held to be part and parcel of Khewat No. 77/62 which in the aforementioned jamabandi is in the ownership and possession of Ajay Raj Singh and others.

The appellant/plaintiff has relied upon the report of the local commission, but it has also come out in the report that the wall 'AD' had been constructed by the respondents/defendants. Even otherwise, it is well settled law that local commission cannot be appointed to ascertain possession which has been held by this Court in the case of Pardhan and others versus Mohar Singh and others, 2012 (13) RCR (Civil) 137. It was enjoined upon the appellant/plaintiff to prove his possession over the land in dispute, which is stated to be 'bara'. Mere production of site plan on record by the appellant/plaintiff cannot be considered to be sufficient proof of ownership and possession over the suit property.

The appellant/plaintiff is also stated to have relied upon an *ex parte* decree against a third party wherein the respondents/defendants had not been arrayed as parties and, hence, they are not bound by the *ex parte* decree. Therefore, this decree has rightly been excluded from consideration by the Courts below.

Consequently, I do not find any merit in this appeal which stands dismissed.

Pending application(s), if any, shall also stand disposed of accordingly.

27.01.2023
Ramesh

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No