

2023:PHHC:122042

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

**CM-10034-C-2023**  
**in/and**  
**RSA-1213-2019 (O&M)**  
Date of decision: 13.09.2023

Satyawan

..Appellant

Versus

Sumitra Devi and others

.Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. Ravinder Phogat, Advocate for the applicant/appellant

**ANIL KSHETARPAL, J (Oral)**

**CM-10034-C-2023**

1. After hearing learned counsel representing the applicant and for the reasons stated in the application, the appeal is restored to its original number. CM stands allowed and with the consent of the learned counsel representing the applicant-appellant, the main appeal is taken on Board for final disposal.

**Main case**

2. The correctness of the concurrent findings of fact arrived at by the courts below is assailed by the defendant in this Regular Second Appeal. The plaintiff's suit for grant of decree of permanent injunction and possession by way of ejectment with respect to 1 kanal 4 marla land has been decreed by both the courts below. It has been found that the appellant has encroached upon the plaintiff's land to the extent of 1 kanal 4 marlas. This fact was proved by various the demarcation reports submitted by the revenue authorities.

3. Heard the learned counsel representing the appellant and with his able assistance perused the paperbook.

4. Learned counsel representing the appellant submits that the relief of possession could not be combined with the relief of injunction. The plaintiff was required to file a separate suit. He further submits that there is a difference in the two reports submitted by the revenue authorities as in one report the encroachment is shown on the eastern side whereas in the other report, the encroachment is shown from the western side.

5. This Court has considered the submissions made by the learned counsel representing the appellant. Despite request of the Court, the learned counsel representing the appellant has failed to draw the attention of the Court to any power in maintaining the suit for injunction while also praying for the delivery of possession. Moreover, the suit for injunction has been filed with respect to the land measuring 3 kanals 14 marlas, which is in possession of the plaintiff whereas the relief of possession has been sought with respect to 1 kanal 4 marlas, which has been encroached upon by the defendant.

6. As regards the second argument, the learned counsel representing the appellant admits that this point was never pressed before the First Appellate Court.

7. The trial court has examined the aforesaid argument and found that the encroachment is on the eastern side.

- 8.Keeping in view the aforesaid facts, no ground to interfere is made out.
- 9.Hence, dismissed.
- 10.All the pending miscellaneous applications, if any, are also disposed of.

13.09.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE