

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

RSA-2753-2019 (O&M)

Decided on:-22.09.2023

Hasam Khan

....Appellant..

vs.

Islam

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Ruby Kaur, Advocate for
Mr. Rajesh Lamba, Advocate,
for the appellant.

HARKESH MANUJA J. (Oral)

1. By way of present appeal, challenge has been laid to the judgments and decrees dated 20.12.2017 and 20.04.2019 passed by the Courts below, whereby, a suit for permanent injunction filed at the instance of appellant-plaintiff with a prayer for restraining respondent-defendant from interfering in his peaceful possession, was dismissed.

2. Briefly stating, the appellant-plaintiff filed a suit for permanent injunction qua land falling in Rect. No.101, Killa No.26(1-4),1/1(0-11), 1/2(1-16), 2/1(3-0), situated in the revenue estate of Village Dhauj, Tehsil and District Faridabad, claiming himself to be owner in possession thereof and having constructed rooms over land falling in killa No.26//1/1(011). It was further averred that respondent-defendant was trying to interfere in the peaceful possession of the appellant-plaintiff over the suit property, thereby, compelling him to file the suit.

3. Upon notice, the stand taken by the respondent-defendant was that the land in question was sold by the appellant-plaintiff by virtue of registered sale deed bearing vasika No.6147 dated 10.10.2001, upon receipt of full and final consideration and possession of the suit property was handed over to the purchasers/buyers, namely, Mohd. Hasan, Abdul Rajjak and Abdul Hamid sons of Jumme Khan, residents of village Dhauj, Tehsil and District Faridabad, who in turn sold it to the wife of respondent-defendant vide sale deed bearing vasika No.13829 and handed over possession thereof.

4. The trial Court vide judgment and decree dated 20.12.2017, dismissed the suit filed by the appellant-plaintiff. Aggrieved thereof, the appellant-plaintiff filed First Appeal, however, the same was also dismissed vide judgment and decree dated 20.04.2019.

5. Impugning the aforementioned judgments and decrees passed by the Courts below, learned counsel for the appellant-plaintiff submits that the sole basis of dismissal of suit filed at the instance of appellant-plaintiff was the sale deed dated 10.10.2001, however, the same being a forged document was assailed at the instance of appellant-plaintiff. It has been further submitted that although the said suit was dismissed by the trial Court, however, an appeal assailing the said judgment passed by the trial Court was still pending adjudication and thus, the Courts below went wrong while dismissing the suit filed by the appellant-plaintiff merely having relied upon the sale deed dated 10.10.2001. No other argument has been addressed by learned counsel for the appellant.

6. I have heard learned counsel for the appellant and gone through

the paper book. I do not find substance in the submissions made on behalf of the appellant.

7. The present is a simple suit for permanent injunction, wherein, merely, the factum of possession over the suit property has to be seen. Considering the pleadings & the evidence available on record a concurrent finding of fact has been recorded by the Courts below. Reliance has been wisely placed upon the sale deed dated 10.10.2001, vide which, even the possession of suit property was handed over to the purchasers/buyers, who in turn sold it to the wife of respondent/defendant. On the other hand, no substantial evidence has been led on behalf of the appellant-plaintiff so as to rebut or controvert the presumption attached to the averment about handing over of possession of the suit property to the purchasers as recorded in the registered sale deed dated 10.10.2001.

8. As regards plea of challenge having been laid to the sale deed dated 10.10.2001 by the appellant-plaintiff, it may be pointed out here that the civil suit filed in this regard was dismissed by the trial Court vide its judgment and decree dated 14.09.2008. Though the said judgment and decree has been assailed in appeal, however, it may not help the appellant-plaintiff at this stage in the present litigation particularly when neither the judgment and decree dated 14.09.2008 nor even the grounds of appeal filed before the First Appellate Court have brought on record to point out the relevance thereof.

9. In view of the discussion made herein above, finding no illegality or perversity in the concurrent findings of fact as regards possession over the suit property having been recorded by the Courts below,

re-appreciation of record is not permissible, thus, finding no merits in the present appeal, the same is hereby dismissed.

22.09.2023
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(HARKESH MANUJA)
JUDGE

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