

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

RSA-2001-2022 (O&M)
Date of decision: 21.03.2023

Pritam Paul

...Appellant

Versus

Ajit Ram

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Surinder Sharma, Advocate with
Mr. Lovish Rattan, Advocate for the appellant.

H.S. MADAAN, J.

Briefly stated facts of the case are that plaintiff Ajit Ram, a Non Resident Indian through his attorney Ravi Pal had brought a suit against defendant Pritam Paul seeking a decree for permanent injunction restraining the defendant and persons claiming under him from dispossessing the plaintiff illegally or forcibly from the suit property or changing the locks or misusing the keys of such property measuring 33 marlas 1 sarsahi situated at Village Chohak, Tehsil and District Jalandhar besides craving for grant of mandatory injunction directing the defendant to hand over set of keys of the suit property to plaintiff/his attorney.

In the suit, the plaintiff claimed ownership of the property in question on the basis of sale deeds in his favour contending that he

had appointed his uncle Milkhi Ram who happened to be father of defendant to take care of the suit property in his absence as he happens to be a Non Resident Indian; Sh. Milkhi Ram had died in September 2011; the suit property was lying locked; the defendant has no right or concern with the suit property but of the late he started proclaiming that he had found set of keys which was with his father as attorney of plaintiff and he threatened to interfere in possession of the plaintiff over the suit property. Feeling aggrieved, the plaintiff had brought the suit in question.

2. On getting notice, the defendant appeared and filed a written statement, contesting the suit, denying that plaintiff is owner in possession of the suit property rather claiming himself to be owner and in possession of the suit property by way of adverse possession. According to the defendant, plaintiff as well as parents of defendant were having joint property at Village Chak Husan, Tehsil Phillaur, District Jalandhar which was sold and then the suit property was purchased in the name of plaintiffs. The actual physical possession of the suit property remained with the father of defendant. It was father of the defendant who had raised construction spending his own money in the year 1990 and electricity connection was installed in the name of defendant, therefore, the father of the defendant had become owner of the suit property and after his death, defendant stepped into his shoes acquiring ownership rights. The defendant denied that the plaintiff ever

came to suit property or resided therein. He prayed for dismissal of the suit.

3. No replication was filed by the plaintiffs.

4. From the pleadings of the parties, following issues were framed:-

1. Whether the plaintiff has concealed true and material facts from the Court? OPD
2. Whether incorrect site plan has been attached with the plaint? OPD.
3. Whether the plaintiff is entitled for the relief of permanent injunction, as prayed for? OPP
4. Whether the plaintiff is entitled for the relief of mandatory injunction, as prayed for? OPP
5. Relief.

5. The parties were afforded sufficient opportunities to lead evidence in support of their respective claims.

6. After hearing arguments, vide judgment and decree dated 16.04.2018, the trial Court of Civil Judge (Jr. Divn.) Jalandhar decreed the suit of the plaintiff. Resultantly, the defendant, his agents, associates, servants etc., were restrained from dispossessing the plaintiff illegally and forcibly and from interfering into his peaceful possession over the suit property as well as changing the locks or misusing the keys of the suit property. The defendant was directed to hand over set of keys of the suit property to the plaintiff/his attorney.

7. Feeling aggrieved by the judgment and decree passed by the trial Court, the defendant had preferred an appeal before District Judge, Jalandhar and his such appeal was dismissed by Addl. District

Judge, (NRI Cases), Jalandhar, vide judgment and decree dated 25.07.2022, leaving the defendant/appellant still aggrieved and he has approached this Court by way of filing the present Regular Second Appeal

8. I have heard counsel for the appellant besides going through the record.

9. The trial Court as well as Ist Appellate Court of Addl. District Judge (NRI Cases), Jalandhar considering the pleadings of the parties, evidence adduced by them, in the light of the facts and circumstances of the case as well as the legal position have returned concurrent findings that plaintiff is owner of the suit property on the basis of two registered sale deeds dated 09.10.1985 and 06.12.1988 and he is in exclusive possession of the same since its purchase. The claim of defendant that earlier his father Milkhi Ram was in exclusive possession of the suit property and after death of his father, he has stepped into his shoes becoming exclusive owner in possession of the property in question was considered and rejected by the Courts below. The claim of the defendant that he had become owner of the suit property by way of adverse possession was also not found to be correct, therefore, suit of the plaintiff was rightly decreed by the trial Court and Ist Appellate Court was justified in affirming the judgment and decree passed by the trial Court.

Counsel for the appellant has referred to judgment

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SCC 692, which is not applicable due to different facts and circumstances and the context in which such observations have been made.

10. I find that the judgments passed by the Courts below are based upon proper appraisal, appreciation of evidence and correct interpretation of law. There is no illegality or infirmity in the impugned judgments. No substantial question of law arises in this appeal. There is no merit in the present Regular Second Appeal. The same stands dismissed accordingly.

21.03.2023

(H.S. MADAAN)
JUDGE

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No