

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

RSA-14936-2018(O&M)

Date of decision:-14.2.2023

Kamaljit Singh

...Appellant

Versus

Varinder Singh and another

...Respondents

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

Present: Mr.Rajeev Dev Sharma, Advocate
for the appellant.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that plaintiff Kamaljit Singh, a Non-resident Indian putting up in America through his attorney Dalwinder Singh had brought a suit against defendants i.e. Varinder Singh and Harcharanjit Singh, seeking a decree for permanent injunction restraining the defendants or persons claimed under them from interfering in his possession of residential property situated over area of 1 bigha within Lal Lakir of village Amargarh Kaler, Tehsil Jagraon, District Ludhiana.

2. According to the plaintiff, he has been in possession of the house in question as owner and since he has been residing in USA, he had appointed Sh.Dalwinder Singh as his attorney to look after his property but the defendants threatened to take forcible possession of the suit

property. Therefore, the plaintiff was compelled to file the suit.

3. On notice, the defendants appeared and filed written statement contesting the suit contending that Amarjit Kaur widow of Avtar Singh for herself and as attorney of her daughter Arvinder Kaur had sold property measuring 1 kanal 0 marla being $\frac{1}{2}$ share out of property measuring 2 kanals in favour of Daya Singh and Daya Singh, who was grandfather of plaintiff and defendant No.1 became absolute owner of the entire property, thereafter, Daya Singh had transferred 1 kanal out of that property in favour of Varinder Singh and Sukhdeep Singh vide registered transfer deed dated 7.7.2009, delivering actual possession to them, in that way, they are in possession as owners with which the plaintiff has no concern. Refuting the remaining assertions, the defendants prayed for dismissal of the suit.

4. The plaintiff had filed replication controverting the allegations in the written statement whereas reiterating the averments in the plaint. On the pleadings of the parties, following issues were framed:

1. Whether the plaintiff is entitled to decree for permanent injunction as prayed for? OPP.
2. Whether plaintiff has no locus standi to file the present suit? OPD.
3. Whether plaintiff has concealed the true and material facts from the Court, if so, its effect? OPD.
4. Whether plaintiff has got no cause of action? OPD.
5. Whether suit is bad for mis-joinder of parties? OPD.
6. Whether suit is not maintainable in its present form? OPD.
7. Relief.

5. The parties led evidence in support of their respective claims.

6. After hearing learned counsel for the parties, the trial Court decided issue No.1 against the plaintiff, issue No.6 in favour of defendants, issues No.2 and 4 in favour of the defendants, issues No.3 and 5 against the defendants. Resultantly, suit of the plaintiff was dismissed with costs. This was so done vide judgment and decree dated 8.8.2016

7. Feeling aggrieved by the said judgment and decree, the plaintiffs had filed an appeal in the Court of District Judge, Ludhiana, which was assigned to Additional District Judge, Ludhiana, who vide judgment and decree dated 31.5.2018 dismissed the same.

8. Still feeling dissatisfied, the plaintiff has knocked at the door of this Court by way of filing a regular second appeal praying that the same be accepted, the impugned judgments and decrees passed by the Courts below be set aside and his suit be decreed.

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

10. In this case both the Courts below in light of the pleadings of the parties, the evidence brought on file by them as well as settled legal position have returned concurrent findings that the plaintiff has failed to establish any title to the suit property or that he is in possession thereof, therefore, he was not found entitled to a decree for permanent injunction, as prayed for.

11. I find that the verdict given by the Courts below are based upon proper appreciation and correct interpretation of law. Both the Courts had rejected the claim of the plaintiff. I do not see any reason to

disagree with the Courts below and take a different view and further to interfere with the impugned judgments and decrees. Those judgments and decrees are upheld.

12. No substantial question of law or fact arises in this appeal.

13. The appeal stands dismissed with costs accordingly.

Since the main appeal stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

14.2.2023

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No