

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

RSA-470-2019(O&M)

Date of Decision: August 07, 2023

RAMJIT

.....Appellant

Versus

TARSEM LAL AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Bansal, Advocate for appellant.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to the judgments and decrees dated 07.12.2015 and 08.08.2018 passed by the Courts below whereby suit for declaration and permanent injunction filed at the instance of appellant-plaintiff stands dismissed.

2. Briefly stating, the appellant-plaintiff filed a suit for declaration impugning the revenue entries showing respondent-defendant no.1 as Saunjidar over the land in question, besides claiming the consequential relief of permanent injunction for restraining the respondent-defendant No.1 interfering in the peaceful possession of the appellant-plaintiff.

3. On the other hand, in the written statement stand taken by respondent-defendant No.1 was that he was in possession of the suit property as Saunjidar being successor of the previous pujari and his possession was even supported from the revenue entries. The trial Court vide judgment and decree dated 07.12.2015 dismissed the suit filed by the appellant-plaintiff.

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4. Aggrieved thereof, the First Appeal was filed which also came to be dismissed vide judgment and decree dated 08.08.2018 passed by the Court of Ld. Addl. District Judge, Hoshiarpur.

5. Impugning the aforesaid judgments and decrees passed by the Courts below, learned counsel for the appellant submits that the suit should not have been dismissed on the ground of locus standi as the appellant sought filing of suit, invoking Order 1 Rule 8 CPC as well as Section 91 thereof. No other argument has been addressed.

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

7. From the documents available on record it cannot be inferred that Section 91 of CPC was ever got invoked at the instance of appellant-plaintiff. Even in the application filed at the instance of appellant-plaintiff under Order 1 Rule 8 CPC before the trial Court, which has been read over before this Court at the time of hearing, nothing has been mentioned as regards any public nuisance or other wrongful act affecting the public at large in the application which in fact is sine qua non for invoking Section 91 of CPC. In the absence thereof, no plea of seeking permission or fling the suit under Section 91 of CPC can be entertained in this Second Appeal.

8. Besides it, a perusal of judgments and decrees passed by the Courts below show that as per the consistent revenue records, the respondent-defendant No.1 has been recorded and shown to be in possession of the suit property having succeeded the same from his predecessor, Smt. Karmi Devi though, the Gram Panchayat recorded

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as its owner. Moreover, no documentary evidence has been produced on record to rebut the revenue entries of jamabandi which carry presumption of truth unless controverted with substantial evidence.

9. In view of the discussions made hereinabove and considering the findings recorded by the Courts below, wherein I do not find any illegality or perversity, thus being devoid of merit, the present appeal and the same is dismissed.

07.08.2023
tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>