

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

**RSA No.5366 of 2018
Date of Decision: 13.12.2023**

Lakhbir Singh

... Appellant

Versus

Sukhdev Singh

... Respondent

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Balbir Singh Jaswal, Advocate
 for the appellant.

MEENAKSHI I. MEHTA, J.(Oral)

Feeling aggrieved by the judgment and decree, as passed by learned Civil Judge (Junior Division), Baba Bakala Sahib, Amritsar (for short 'the trial Court') on 31.10.2015, whereby the Civil Suit filed by the appellant-plaintiff (here-in-after to be referred as 'the plaintiff') for seeking a decree for permanent injunction for restraining the respondent-defendant (here-in-after to be referred as 'the defendant') from interfering in his peaceful possession over the suit property, has been dismissed as well as by the judgment and decree handed down by learned Additional District Judge, Amritsar (for short 'the Lower Appellate Court') on 10.05.2017, dismissing the appeal, as moved by the plaintiff to assail the said judgment and decree passed by the trial Court, he (plaintiff) has chosen to prefer the present Regular Second Appeal to lay challenge to the same.

2. I have heard learned counsel for the appellant-plaintiff in the instant appeal, at the preliminary stage and have also gone through the file carefully.

3. Learned counsel for the plaintiff contends that the plaintiff is the nephew (sister's son) of Mukhtar Singh, who was the owner and was in possession of the suit property, located in the '*Lal Dora*' (land ear-marked as inhabited/residential area) of Village Jabowal and had died as a bachelor and had bequeathed the said property to the plaintiff by way of executing a Will in his favour and after the death of his above-named maternal-uncle, the plaintiff has been continuing in possession over the suit property as its owner and moreover, the defendant asserts himself to be in possession over this property, while claiming that said Mukhtar Singh had handed over its possession to him at the time of executing the alleged agreement to sell it in his favour but the fact remains that he has failed to prove this assertion and both the Courts below fell in error in ignoring this fact and have wrongly declined the relief, as sought by the plaintiff in the afore-referred Suit and it being so, the impugned judgments and decrees deserve to be set-aside.

4. However, the above-raised contentions are devoid of any force because for seeking the relief of permanent injunction as claimed by the plaintiff in the afore-said Suit, he was required to substantiate the factum of his being in possession over the suit property but it is worth-while to point it out here that both the Courts below have concurrently observed that he had failed to prove the same and rather, he had, admittedly, been residing in another Village known as Chawinda Devi.

5. The contention regarding the defendant having not been able to establish his assertion qua his possession over the suit property on the basis of the above-mentioned agreement to sell, is also of no avail to the plaintiff because it is well settled that the plaintiff has to stand on his own legs so as to substantiate his claim and he cannot take the benefit of the weakness of the case/defence of the opposite party/defendant.

6. As a sequel to the fore-going discussion, it follows that the impugned judgments and decrees, as passed by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the same are, hereby, upheld and the Regular Second Appeal in hand, being bereft of any merit, stands dismissed.

December 13, 2023
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*