

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-326-2022 (O&M)****Date of Decision: 05.12.2024****VIJAY KUMAR**

... APPELLANT

Vs.

**RAJINDER KUMAR AND ANOTHER**

... RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. H.K. Brinda, Advocate, for the appellant.

**DEEPAK GUPTA, J.**

Plaintiff of the case is before this Court against the concurrent findings of the Courts below.

2. Suit filed in February 2014 by the plaintiff seeking possession of the disputed property measuring 23 sq. yards shown by letter 'ABCD' in the site plan attached with the plaint, was dismissed by the trial Court on 24.04.2019. It was alleged by the plaintiff that said property formed part of Khasra No.140 (0-3) as per details given in the head-note of the plaint and that defendants (respondents) had illegally occupied the same. Defendants resisted the claim. Trial Court held that plaintiff had failed to prove the suit property to be part of Khasra No.140 and so, dismissed the suit. Appellate Court affirmed the findings vide judgment dated 17.12.2021.

3. Assailing the aforesaid findings, it is contended by Id. counsel that ownership of the plaintiff-appellant regarding khasra No.140 is not in dispute and therefore, the Courts below have committed error in dismissing the suit. Learned counsel also contends that plaintiff had produced demarcation report, which was submitted in the previous litigation between the parties, but the same has been wrongly ignored.

4. Having considered submissions of Id. counsel for the appellant and after perusing the paper-book, this Court does not find any merit in this case.

5. It has been observed by the Appellate Court that although defendant in his testimony had admitted that plaintiff had half share in Khasra No.140 (0-3), but said defendant denied to be in possession of the disputed

khasra. It is observed that though plaintiff made reference of some previous litigation between the parties and also regarding some compromise, which defendants had allegedly breached, but neither specific details of the previous litigation were given nor any such compromise was placed on record.

6. Learned Appellate Court further found that plaintiff had relied upon a demarcation report Ex.PW2/B, which had been conducted way-back in 1998 in previous litigation, but that was not relevant to this case because the dispute in that previous litigation pertained to not only Khasra No.140, but also khasra No.142 and 143. That report had relevance only to the facts of the previous litigation. Learned Appellate Court observed that in view of the circumstances, the demarcation report prepared in 1998 was of no help to advance the case of the plaintiff, as PW2, who had proved this report himself admitted that as the demarcation was conducted by him about 20 years ago, he was not aware about the proper boundaries and measurement of the property in dispute.

7. Plaintiff also relied upon site plan Ex.PW3/A prepared by PW3-Balwinder Singh, but this witness admitted that no directions of the disputed property like North, East, South or West were mentioned in the said site plan. Even no boundaries were mentioned therein and thus, the site plan Ex.PW3/A was completely a vague document, which failed to identify the disputed property measuring 23 sq. yard to be part of Khasra No.140.

8. Having regard to the observations and findings as made by the Courts below, this Court does not find any merit in this appeal, as the concurrent findings of facts as recorded by the Courts below are based upon proper appreciation of evidence. Plaintiff-appellant has utterly failed to prove the disputed property to be part of Khasra No.140.

9. As such, holding the present appeal to be devoid of any merit, the same is hereby dismissed.

05.12.2024  
*Vivek*

(DEEPAK GUPTA)  
JUDGE

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|----------------------------|-----|
| Whether speaking/reasoned? | Yes |
| Whether reportable?        | No  |