

2024:PHHC:163991



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

RSA-2865-2023 (O&M)

Reserved on : 29.11.2024

Pronounced on : 10.12.2024

Jit Singh @ Ajit Singh (since deceased) through LR

....Appellant

VERSUS

Municipal Corporation, Ludhiana & Ors.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Umesh Kumar Kanwar, Advocate for the appellant.

ALKA SARIN, J.

1. The present appeal has been preferred by the plaintiff-appellant against the judgements and decrees dated 29.10.2009 and 31.10.2012 passed by the Trial Court and the First Appellate Court, respectively, dismissing his suit. The appeal is barred by 3762 days.

2. Jit Singh, the original plaintiff, filed a suit for declaration that certain mutations entered in favour of the defendant-respondents are illegal, wrong, against rules and principles of natural justice regarding land measuring 12M as detailed in the heading of plaint. The plaintiff also sought relief of permanent injunction for restraining the defendant-respondent Nos.3 and 4 from alienating the suit land forcibly and illegally and also for restraining them from dispossessing the plaintiff from the suit land. According to the plaintiff he was in possession of the suit land and cultivating the same since 1969. A room along with boundaries was constructed by the plaintiff and his possession is shown in the revenue

documents also. Earlier the plaintiff had filed a civil suit for permanent injunction against the defendants which was decreed by the Trial Court and the appeal of the Municipal Corporation was dismissed by the First Appellate Court. The impugned mutations had been got done without any notice to the plaintiff. Hence, the suit. In their written statements the defendant-respondents raised preliminary objections and stated that the plaintiff was neither owner nor in possession of the suit land and had no locus standi to file the suit to challenge the impugned mutations. According to the defendant-respondent Nos.3 and 4 the earlier suit was not filed against them so that had no relevancy in this case.

3. Vide judgement and decree dated 29.10.2009 the Trial Court dismissed the suit of the plaintiff holding that he had no right or interest in the suit land. The plaintiff filed an appeal against the decision by the Trial Court. On 30.08.2012 the counsel for the plaintiff suffered a statement before the First Appellate Court that the appeal be heard on the point of permanent injunction and relief of declaration was not pressed. Vide judgement and decree dated 31.10.2012 the First Appellate Court dismissed the appeal qua the relief of permanent injunction. Hence, the present regular second appeal.

4. The present regular second appeal is accompanied with applications for condonation of delay, application for condonation of delay in re-filing, application for impleading the legal heirs of the plaintiff, etc.

5. Learned counsel for the plaintiff has contended that both the Courts have erred in dismissing his suit for permanent injunction though the

possession of the plaintiff stood established from the evidence led by the plaintiff. It is urged that the suit for permanent injunction deserved to be decreed.

6. Heard counsel for the plaintiff.

7. In the present case the plaintiff led evidence in the form of revenue records to show his possession over the suit land. However, all the documents produced by the plaintiff (Ex.P1 to Ex.P14) were photocopies of the certified copies. The certified copies were not produced in evidence. Further, nobody from the custodian of these documents was produced to depose about their authenticity. The plaintiff did not even produce the certified copies of the judgements and decrees in the earlier suit but only photocopies of the certified copies. There was no application by the plaintiff for leading secondary evidence. It is well settled that a photocopy of a document cannot be accepted as secondary evidence if it is presented without evidence of its accuracy, without a comparison with the original, or without verification that it is a true reproduction. Apart from these documents there is no other cogent and reliable evidence on the record which may show possession of the plaintiff over the suit land. Learned counsel for the plaintiff is unable to point to any cogent and reliable evidence on the record to dislodge the concurrent findings recorded by both the Courts. In the absence of such reliable evidence, the findings recorded by both the Courts cannot be faulted. No other point was argued.

8. In view of the above, no mistake or error of law or facts can be found with the judgments and decrees passed by both the Courts. No

question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. As a consequence, the application seeking condonation of delay of 3762 days in filing the appeal also stands dismissed. Other pending applications, if any, also stand disposed off.

10.12.2024

Aman Jain

**(ALKA SARIN)
JUDGE**

*NOTE : Whether speaking/non-speaking: Speaking
 Whether reportable: Yes/No*