



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

RSA-442-2016 (O&M)

Date of decision: 24.07.2024

Kartar Wanti Dharmarth Trust

....Appellant

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sunil Chadha, Sr. Advocate with
Mr. Lakshay Bector, Advocate for the appellant

Mr. Kanav Singla, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the plaintiff assails the correctness of the concurrent findings of fact arrived at by the courts below while dismissing its suit for the grant of decree of perpetual injunction. In substance, the plaintiff claims to be in continuous and uninterrupted possession of 15 kanals land in which two big sized rooms have been constructed. The suit was filed against the State of Punjab. In the written statement, the State of Punjab claimed that the property was reserved for forest and there is an order of eviction passed by the Sub Divisional Magistrate-cum-Collector under the Public Premises Act, 1972 (hereinafter referred to as '1972 Act') against Jatinder Singh and Manju Bala, which in appeal has been affirmed by the Commissioner on 23.04.2012. The plaintiff has no right to continue in possession. Upon appreciation of evidence, both the courts have dismissed the suit.



2. Learned senior counsel representing the appellant, while drawing the attention of the Court to Ex.D4, (the order passed by the Collector) submits that the proceedings under the 1972 Act against Jatinder Singh and Manju Bala and not the plaintiff. He submits that this fact came to the notice of the Collector, which has been noticed in the impugned order. He further submits that if an unauthorized occupant is required to be evicted, the petition under Section 4 and 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 should be filed against him and not against stranger.

3. Per contra, the learned counsel representing the State submits that the suit property is a reserved forest. As per notification dated 31.12.1952 and because of pendency of the cases, the appellant continues to be in possession, though it has no right.

4. This Court has considered the submissions made by the learned counsel representing the parties.

5. The appellant (plaintiff) claims the property on the basis of an attorney executed by Jatinder Singh and Manju Bala. Thus, the appellant is an agent of Jatinder Singh and Manju Bala. Once there is an order of eviction against the principal, which has become final, the agent (appellant) cannot claim any equity. Moreover, the appellant has no right in the property. Unauthorized encroachment of forest area cannot be permitted to be continued by invoking equitable jurisdiction. Before granting injunction, the court is required to apply the following three well known tests, and decide accordingly:-

i) Prima facie case



- ii)balance of convenience
 - iii)irreparable loss and injury, which the party is likely to suffer.
6. In this case, the appellant has failed in all the aforesaid tests.
7. Keeping in view the aforesaid facts, no ground to interfere is made out.
8. Hence, dismissed.
9. All the pending miscellaneous applications, if any, are also disposed of.

24.07.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE