

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****106****RSA-5560-2018 (O&M)****Date of Decision : 22.08.2024**

Amarjit Singh

....Petitioner

VERSUS

Baldev Singh and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rahul Arora, Advocate for
Mr. Nitish Garg, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 24.05.2017 passed by the Trial Court and the judgment and decree dated 16.05.2018 passed by the First Appellate Court.
2. Brief facts relevant to the present *lis* are that the plaintiff-appellant filed the present suit for permanent injunction claiming that he and his brothers, namely, Davinder Singh and Satwant Singh, were owners in possession of the suit property from the time of their forefathers. It was averred that the plaintiff-appellant and his brothers had planted different types of trees on the suit property. It was further averred that possession of the plaintiff-appellant and his brothers over the suit property was peaceful and absolute and that the defendant-respondents had no concern with the same but were forcibly and illegally trying to encroach upon the suit property. The suit was contested by the defendant-respondents. Defendant-respondent No.1, besides raising preliminary objections, on merits took the

stand that the property of Davinder Singh was 200 yards away from the suit property and Satwant Singh resides in Dashmesh Colony. It was further averred that the house of the plaintiff-appellant is at a distance of about 500-550 yards and that a totally false story had been concocted. It was further the stand taken that the defendant-respondent No.1 was in possession of 1/3rd share of the suit property from the time of his forefathers and 2/3rd share was in possession of other villagers. The possession of the plaintiff-appellant and his brothers was denied. Similar stand was taken by defendant-respondent No.2. Replication was filed reiterating the contents of the plaint and denying those of the written statements. On the basis of pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to relief of permanent injunction as prayed for ? OPP
2. Whether the suit of the plaintiff is not maintainable in the present form ? OPD
3. Whether the plaintiff has not come to the Court with clean hands and suppressed material facts ? OPD
4. Whether the plaintiff has no locus standi to file the present suit ? OPD
5. Relief.

3. The Trial Court dismissed the suit vide judgment and decree dated 24.05.2017 holding that the plaintiff-appellant had failed to prove his possession over the suit property by leading cogent and convincing evidence. Aggrieved by the same an appeal was preferred which appeal was dismissed vide judgment and decree dated 16.05.2018 passed by the First Appellate Court. Hence, the present regular second appeal.

4. Learned counsel for the plaintiff-appellant would contend that the plaintiff-appellant himself as also his brother Davinder Singh stepped into the witness-box to depose regarding the possession and hence there was ample evidence on the record to show that they were in possession of the suit property which falls within the *Lal Lakir*.

5. Heard.

6. In the present case it has concurrently been held by both the Courts that the plaintiff-appellant had failed to lead any cogent and convincing evidence to show his possession over the suit property except for bald statements of two witnesses. There is nothing on record to even remotely suggest that the plaintiff-appellant is in possession of the suit property. There being no convincing and reliable evidence to prove the possession of the plaintiff-appellant over the suit property, his suit has rightly been dismissed. No fault can be found with the judgments and decrees passed by both the Courts.

7. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

22.08.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO