

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-6172-2017 (O&M)
Date of Decision: 21.02.2024

SURINDER SINGHAPPELLANT
VS
MAN MOHAN SINGH AND ORS RESPONDENTS

CORAM: HON’BLE MR. JUSTICE GURBIR SINGH

Present: None.

GURBIR SINGH, J. (ORAL)

* * * *

1. The regular second appeal is filed by the plaintiff against the judgment and decree dated 18.01.2017 passed by the Appellate Court whereby relief of declaration is declined and only decree for permanent injunction is passed, partly allowing the appeal against the judgment and decree dated 24.02.2014 passed by Civil Judge (Junior Division) dismissing in toto the suit for declaration and permanent injunction filed by the plaintiff.
2. The parties are being addressed as per their status in the original plaint.
3. The plaintiff sought declaration that plaintiff is owner in possession of the suit property on the basis of writing dated 05.03.1973 Ex.Px and judgment and decree dated 05.10.2007 passed in Civil Suit No. 409/2005 are illegal null and void and for permanent injunction restraining the

defendants from interfering in the possession of the plaintiff over the suit property and from dispossessing the plaintiff from suit property.

4. Learned trial Court held that plaintiff failed to prove ownership over the suit property so plaintiff is not entitled for relief of declaration as claimed by him and legal consequence of the same was that plaintiff was not entitled for relief of permanent injunction. Whether judgment and decree dated 05.10.2007 is illegal null and void can only be decided by the Court in which application under Order 9 Rule 13 CPC, for setting aside the same was filed and plaintiff was not entitled for the relief of declaration that judgment and decree dated 05.10.2007 was illegal, null and void.

5. The plaintiff filed appeal against judgment and decree passed by trial Court. The learned Appellate Court held that plaintiff failed to prove his ownership over the suit property but plaintiff was found to be in established permissive possession of the suit property so plaintiff could not be evicted from the suit property except in due course of law and appeal was partly allowed, decree for permanent injunction was passed whereby defendants were restrained from interfering in possession of plaintiff over suit property except in due course of law.

6. I have gone through the paper book.

7. There is no dispute that plot measuring 500sq.yar was purchased by Tara Singh vide sale deed dated 08.06.1966 Ex.P-13. The case of the plaintiff is based on writing dated 05.03.1973 Ex.Px. Plaintiff is claiming that Tara Singh partitioned the said plot and suit property measuring 164 sq.yard fell to the share of the plaintiff and he constructed eight shops thereon. The plaintiff has become owner in possession of the suit property on the basis of

writing Ex.Px. The writing dated 05.03.1973 Ex.Px does not bear signatures of Tara Singh. The same is only signed by Gurcharan Singh, defendant No.2. Due to absence of signatures of Tara Singh on writing Ex.Px, same does not confer any right, title or interest upon the plaintiff in the suit property. Both the Courts below have given concurrent findings that plaintiff has failed to prove that he is owner of the suit property. There is no illegality in the finding regarding ownership recorded by both the Courts below. There are eight shops built on the suit property. The plaintiff is rightly held to be in established possession of the suit property and plaintiff can not be dispossessed from the suit property except in due course of law.

8. There is no illegality in the judgments passed by the Courts below. Neither there is any misreading of evidence nor there is any misappreciation of evidence. No substantial question of law arises in the present appeal. Accordingly, this appeal is hereby dismissed.

21.02.2024
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(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>