



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

**RSA-315-2025 (O&M)
Date of Decision : 30.01.2025**

Hardeep Singh

..... Appellant

Versus

Bathinda Development Authority and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Ram Kumar Chauhan, Advocate
for the appellant.

VIKRAM AGGARWAL, J (ORAL)

This is plaintiff's appeal against the judgment and decree dated 04.01.2025, passed by the Court of learned Addl. District Judge, Bathinda, dismissing the appeal filed by the appellant-plaintiff against the judgment and decree dated 09.09.2024, passed by the Court of learned Civil Judge (Junior Division), Bathinda, vide which the suit for permanent injunction filed by the plaintiff, was dismissed.

2. For the sake of convenience and clarity, parties shall be referred as per their original status.

3. The plaintiff Hardeep Singh (now represented by his legal representatives i.e. his widow Harwinder Kaur and daughter Romanjeet Kaur filed a suit for permanent injunction restraining the defendant (Bathinda Development Authority) from interfering in the peaceful possession of the



plaintiff over MIG Quarter No.633, Bhagu Road, Bathinda (hereinafter referred to as 'the suit property') and from dispossessing him from his settled possession except in due course of law. The case set up was that the plaintiff, being a government employee and working as a peon was residing in the suit property for more than four years. He claimed that his identity card, gas connection documents and other documents contained the address of the suit property. On 16.07.2022, the officials of the defendant came to the spot and asked him to vacate the suit property. As per the plaintiff, the action was initiated without issuance of any notice etc. The plaintiff claimed that he cannot be forcibly evicted from the suit property which he is in settled possession of.

4. The suit was resisted by the defendant. The stand taken was that the suit property had been sold by way of auction to one Harpreet Singh son of Jodha Singh on 21.12.2012. After deposit of 25% of the total sale consideration of ₹8,33,000/-, allotment letter dated 01.03.2013 was issued and possession was also delivered to Harpreet Singh. However, the auction purchaser was unable to make the payment of due installments and accordingly submitted a request vide communication dated 09.09.2014 to surrender the possession of the suit property. Accordingly, a sum of ₹3,47,593/- was refunded to him. However, the plaintiff forcibly entered the suit property by breaking its locks. When the defendant acquired knowledge of the same, they called upon the plaintiff to vacate the suit property but instead of vacating the same, he filed a suit. It was averred that action was being initiated against the plaintiff under the provisions of The Punjab Regional and Town Planning and Development Act, 1995 (hereinafter



referred to as 'the 1995 Act'). It was averred that, being the true owner, no injunction could be issued against the defendant.

5. From the 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 plaintiff has no cause of action or locus standi to file the present suit ? OPD
3. Whether the suit is not maintainable in the present form ? OPD
4. Whether the plaintiff is estopped by his own act and conduct to file the present suit ? OPD
5. Whether the suit of plaintiff is false, baseless and vexatious to the knowledge of the plaintiff ? OPD
6. Whether the plaintiff has not come to the Court with clean hands ? OPD
7. Relief.

6. Parties led their respective evidence.

7. The trial Court dismissed the suit filed by the plaintiff and the appeal filed against the said decision was also dismissed, leading to the filing of the present regular second appeal.

8. I have heard learned counsel for the appellant-plaintiff.

9. Learned counsel for the appellant submits that both the Courts have erred in non-suiting the plaintiff. He submits that even a trespasser cannot be



forcibly evicted and being in settled possession, the only way to evict the plaintiff would be to proceed in accordance with law. Learned counsel submits that even against the true owner i.e. the defendant, injunction could have been issued but the Courts mis-construed the settled position of law and erroneously non-suited the plaintiff. In support of his contentions, learned counsel has placed reliance upon the judgments of Supreme Court of India in ***Rame Gowda (Dead) by Lrs. versus M. Varadappa Naidu (Dead) by Lrs. AIR 2004 Supreme Court 4609 and Walter Louis Franklin (dead) through LRs. Versus George Singh (dead) through LRs. 1997 (2) RCR (Civil) 41.***

10. Having heard learned counsel for the appellant and having perused the paper book, I find the submissions made by learned counsel to be devoid of merit. In the first place, the plaintiff was not able to prove that he was in settled possession of the suit property. Despite repeated queries even in the Court today, learned counsel could not state as to under what capacity, the plaintiff was in possession of the suit property and since when. It is the categorical case of the defendant that the plaintiff had broken open the locks of the suit property and had gained forcible access to the same. In the considered opinion of this Court, such a person would deserve no relief. No doubt, it is settled law that even a trespasser in settled possession cannot be evicted except in due course of law. However, to claim the said relief, the plaintiff would have to prove that he was in settled possession of the suit property. In the considered opinion of this Court, the plaintiff miserably failed to do so and mere production of a copy of gas connection etc. would not prove settled possession. No electricity bills etc. were produced to show as to since when, the plaintiff was in possession and in what capacity.



11. The photographs etc. produced by the plaintiff were rightly discarded by the Courts stating that they had not been proved in accordance with law. It is shocking that a peon working with a government department is in forcible occupation of a Government property and seeks an injunction against a Government Agency. If this was to be accepted, it would result in total chaos, indiscipline and lawlessness. In the case of ***Prem Ji Ratansey Shah and Ors. v. Union of India and Ors., (1994) 5 SCC 547***, the Supreme Court of India had categorically held that no injunction could be issued against the true owner especially where the possession of the person seeking injunction was unlawful. In the case of ***Rame Gowda (Dead) by Lrs. versus M. Varadappa Naidu (Dead) by Lrs. (supra)***, the Supreme Court held as under:-

“9.The “settled possession” must be (i) effective, (ii) undisturbed, and (iii) to the knowledge of the owner or without any attempt at concealment by the trespasser. The phrase “settled possession” does not carry any special charm or magic in it; nor is it a ritualistic formula which can be confined in a straitjacket. An occupation of the property by a person as an agent or a servant acting at the instance of the owner will not amount to actual physical possession.”

12. It is, therefore, clear that neither the plaintiff could prove that he was in settled possession nor did he lead any evidence to prove as to how he had come into possession. Under the circumstances, no injunction could have been issued in favour of the plaintiff and against the defendant who, even as per the stand taken, had initiated proceedings under the 1995 Act.



13. I have gone through the judgments relied upon by learned counsel for the plaintiff. The first judgment is in the case of ***Rame Gowda (Dead) by Lrs. versus M. Varadappa Naidu (Dead) by Lrs.*** (supra) itself which has been discussed above. The Supreme Court of India categorically held that it is the settled possession which would entitle the plaintiff to protect his possession. Reference in the judgment was also made to the judgment in the case of ***Munshi Ram and Ors. Vs. Delhi Administration (1968) 2 SCR 455*** and other celebrated judgments on the subject. The essence of all the judgments is that a trespasser to claim protection, should be in settled possession. In the case of ***Walter Louis Franklin (dead) through LRs. Versus George Singh (dead) through Lrs*** (supra), the Supreme Court of India held that a person in possession of immovable property is entitled to injunction even against the true owner. Again, the issue which would be significant is the question of how possession was obtained and whether it was settled possession or not. The judgment would, therefore, not come to the aid of the appellant.

In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

30.01.2025
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No