



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1379-1991 (O&M)
Date of Order:15.01.2025

SAMPURAN SINGH (DECEASED) THROUGH LRS

.Appellant

Versus

BALBIR SINGH & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.S.Joshi, Advocate
for the appellant.

None for the respondents.

ANIL KSHETARPAL, JUDGE (Oral)

1. The defendant assails the correctness of the concurrent findings of fact arrived at by the courts below.
2. The suit filed by the plaintiffs for grant of decree of mandatory injunction directing the defendant to remove encroachment made by them from passage comprised in khasra no.994, has been decreed by both the courts below.
3. The defendant contested the suit claiming that there is no passage. In order to prove the passage, the plaintiffs produced the revenue record which proves that there is a passage in khasra no.993. The demarcation report Ex.P1 was also produced and proved by Sh. Gian Chand, Field Kanungo to prove the encroachment. Thus, both the courts decreed the suit.
4. This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paper book along



with the requisitioned record.

5. The learned counsel representing the appellant has made the following submissions:-

- (1) The plaintiffs have claimed that the defendant has encroached upon the land comprised in Rect. No.95, khasra no.10/2 which belongs to the plaintiffs. Hence, the suit was not maintainable.
- (2) The suit was filed beyond the period of limitation as Sh. Balbir Singh has admitted the defendant's possession for the last 11 years.
- (3) A proper demarcation was not carried out as would be evident from the report Ex.P1.
- (4) The defendant has constructed a pucca room which could not be ordered to be removed in a suit for mandatory injunction.

6. This court has considered the submissions of the learned counsel representing the appellant.

7. With regard to the first argument, it may be noted that the trial court as well as the First Appellate Court have only passed decree with regard to removal of defendant from the land comprised in khasra no.993 which admittedly is a land reserved for passage.

8. With regard to the second argument, it may be noted that one sentence in oral deposition of witness cannot be read in isolation of the entire statement. The defendant has failed to prove that his possession is more than 12 years old. Moreover, before the courts below this objection



was never taken. For the first time, in this regular second appeal, this court does not find it appropriate to entertain the objection.

9. With regard to the proper demarcation in accordance with the established procedure, it may be noted that Sh. Gian Chand is an experienced revenue official, who is holding the post of Field Kanungo. He has proved report Ex.P1 and Nakhsa Ex.P3. He has stated that he had carried out the demarcation in the presence of all the persons, who had gathered there.

10. The last argument of the learned counsel lacks substance because the appellant's counsel has failed to draw the attention of the court to any provision which prohibits the Court to order removal of pucca construction.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

12. Dismissed.

13. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

January 15, 2025
nt

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