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

RSA-456-2024 (O&M)

Date of Decision : 13.01.2025

Ramesh Kumar

... Appellant(s)

Versus

Gram Panchayat Village Tajpur & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mukesh Yadav, Advocate for the appellant.

ALKA SARIN, J. (Oral)

CM-1634-C-2024

1. This is an application for condonation of delay of 185 days in refiling the appeal.
2. For the reasons stated in the application, delay of 185 days in refiling the appeal is condoned. CM stands disposed off.

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3. The present regular second appeal has been preferred by the plaintiff-appellant against the judgment and decree dated 10.09.2019 passed by the Trial Court and the judgment and decree dated 01.04.2023 passed by the First Appellate Court.
4. Brief facts relevant to the present *lis* are that the plaintiff-appellant herein preferred the present suit seeking a decree of permanent injunction to the effect that the property shown in red colour in the site plan marked by letters DEFGHIJKLA bounded as North-property of Gangadutt, South-CC Tiles road, East-property in dispute and blank land and thereafter thoroughfare and in the East-property of the plaintiff-appellant, situated

within the *abadi* of village Tajpur, Tehsil Ateli, District Mahendergarh. It was averred that the defendant-respondent No.1 be restrained from interfering in the possession and user of the property in dispute. The suit was contested by the defendant-respondent No.1 by filing a written statement raising various preliminary objections. It was the stand taken that the plaintiff-appellant was the owner of the adjacent property to the disputed property and had tried to include the disputed property in his land and, hence, a notice under Sections 24(1) and 24 (2) of the Haryana Panchayati Raj Act, 1994 was issued to him. It was further the stand taken that the co-sharer of Pana Kharotiya had given the disputed property to Kirorimal for religious purpose and thereafter Kirorimal alongwith his family had left the village and had given in writing to Pana Kharotiya that the disputed property alongwith the construction thereupon would vest with the Gram Panchayat. No replication was filed. On the basis of the pleadings, the following issues were framed :

1. Whether the plaintiff is entitled to a decree for permanent injunction as prayed for on the grounds mentioned in the plaint ? OPP
2. Whether the suit is not maintainable in the present form ? OPD
3. Whether the plaintiff has no locus-standi to file the present suit ? OPD
4. Whether plaintiff has no cause of action to file the present suit ? OPD
5. Whether the Civil Court has no jurisdiction to try and maintain the present suit ? OPD
6. Whether the plaintiff is liable to pay special costs under Section 35A CPC ? OPD

7. Whether the plaintiff has not come in the court with clean hands ? OPD

8. Relief.

5. The Trial Court dismissed the suit vide judgment and decree dated 10.09.2019. Aggrieved by the same, an appeal was preferred which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 01.04.2023. Hence, the present regular second appeal.

6. Learned counsel for the plaintiff-appellant would contend that the plaintiff-appellant was issued a notice by the Gram Panchayat and that the Gram Panchayat is not the owner of the property and that the property was owned by Kirorimal and, hence, injunction ought to have been granted in his favour.

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

8. It is trite that in a suit for permanent injunction it is incumbent on the plaintiff-appellant to show that he was in possession of the suit property. Not an iota of evidence has been led by the plaintiff-appellant to even remotely suggest that he was in possession of the suit property. In the absence of any evidence proving his possession, no fault can be found with the judgments and decrees passed by both the Courts.

9. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

13.01.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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