



215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-753-2011 (O&M)
Date of decision : 11.12.2025

Bachna Appellant

Versus

Sodhi & ors. Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Kanwal Goyal, Advocate
Ms. Komal Klana, Advocate
Ms. Sheena Dahiya, Advocate
for the appellant.

Mr. A.S.Gill, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

1 Plaintiff is in second appeal aggrieved of the judgment and decree passed by both the Courts below. For convenience, parties hereinafter are referred to by their original position in the suit i.e. the appellant as plaintiff and respondents as defendants.

2 Plaintiff filed suit seeking decree of permanent injunction claiming himself to be in possession of 7 marlas of land comprising khasra No.99/26 (11-10) bounded as under :-

East : Property of Sodhi etc.

West : Gurdwara

North : Gali,

South : Gali,



3 Defendants No.1 & 2 were proceeded *ex-parte* and opted not to appear. Suit was contested by defendant No.3 claiming that the plaintiff is only owner to the extent of 3 marlas and wants to disturb the peaceful possession of the defendant. Though it was admitted that the plaintiff raised wall on the plot of defendant but it was claimed that it is encroachment upon the plot owned by the defendants. Suit filed by the plaintiff was put to trial framing following issues :-

- “1. Whether the plaintiff is entitled for permanent injunction as prayed for? 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. Relief.”*

4 Though the Trial Court referred to the admission made by the defendant wherein he admitted that the plaintiff is in possession of 6 ½ marlas of land but declined the relief to the plaintiff holding that the relief of injunction is a discretionary relief and the same cannot be granted without demarcation.

5 Unsuccessful plaintiff preferred appeal. The Lower Appellate Court dismissed the appeal affirming the findings recorded by the Trial Court holding that from the jamabandi (Ex.P2), it is clear that the plaintiff is owner of 7 shares against the plea raised in the plaint that the plaintiff is owner of 7 marlas. Plaintiff being guilty of suppressing material facts from the Court is not entitled for grant of injunction.



6 Counsel for the plaintiff has assailed the findings recorded by the Courts below. He admits that as per jamabandi (Ex.P2), the plaintiff is co-owner to the extent of 7 shares out of 317 shares in land measuring 230 marlas i.e. 11 kanal 10 marlas. He, however, submits that once DW2 admitted that the plaintiff is in possession of 6 ½ marlas of land and has also raised boundary wall thereupon, the plaintiff could not have been non-suited dismissing his suit seeking injunction.

7 *Per contra*, counsel for the defendants refers to the statement of plaintiff-Bachna, who appeared as PW1. He submits that the plaintiff failed to prove the site plan attached to the plaint. In the absence of proper identification of the property, the Courts below have rightly dismissed the suit filed by the plaintiff.

8 I have heard learned counsel for the parties and have gone through the records of the case.

9 Plaintiff claims to be in exclusive possession of part of the suit land to the extent of 7 marlas. As per Ex.P2, the plaintiff is recorded to be in possession of 7 shares out of 317 shares. The same when calculated amounts to 5.07 marlas. Plaintiff in the plaint claimed to be in possession of a property which is bounded as under :-

East : Property of Sodhi etc.

West : Gurdwara

North : Gali,

South : Gali,



10 Defendant's witness Baldev Raj while appearing as DW2 admitted as under :-

"It is correct that on the one side of the property in dispute there is property of Sodhi. On the one side there is Gurdwara and on two side there are street. Bachna is in possession 5 Marlas land of 272 sq. yards that is 6 and half marlas of land and there is a boundary wall of the plaintiff there on. The plaintiff have also encroached upon the land owned by the defendant."

11 To the same effect is the statement of defendant No.3 who appeared as DW1 and admitted that :-

"I do not remember the Khasra numbers of the property in dispute, Bachna plaintiff is owner to the extent of 7 share from the entire until consisting of 11K 10M. That portion is in possession of the plaintiff."

12 The boundaries as mentioned in the plaint when juxtaposed upon the boundaries as admitted by defendant and their witness DW1 and DW2, it is evident that the property admitted to be in possession of the plaintiff is the one which is subject matter of the plaint. Though Mr. A.S.Gill, Advocate is right in contending that plaintiff is not owner to the extent of 7 marlas but at the most can claim injunction over 7 shares, at the same time he is not in a position to dispute that as per site plan Ex.P2 when analyzed in the light of the admission made by defendant's witness, plaintiff successfully proved his possession over the property as mentioned in the head note of the plaint.

13 Mr. Kanwal Goyal, Advocate also admits that the plaintiff cannot claim injunction *qua* 7 marlas, but would at the most be entitled to injunction *qua* 5.07 marlas in terms of Ex.P2.



14 In view of above, the present appeal is partly allowed.

15 The suit filed by the plaintiff is decreed to the extent of 5.07
marlas out of khasra No.99/26 *qua* the plot bounded as under :-

East : Property of Sodhi etc.

West : Gurdwara

North : Gali,

South : Gali,

16 Decree be drawn accordingly.

17 Pending miscellaneous application, if any, also stands disposed
off.

(PANKAJ JAIN)
JUDGE

11.12.2025

Pooja Sharma-I

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No