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

RSA-2905-2018 (O&M)

Date of Decision : 02.09.2025

RAMESH LAL

.... Appellant

VERSUS

RAJINDER SINGH & ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajeev Dev Sharma, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the defendant-appellant aggrieved by the judgment and decree dated 13.11.2014 passed by the Trial Court and the judgment and decree dated 12.12.2016 passed by the First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondents herein filed a suit for possession of the portion marked ABCD shown in red in the site plan forming part of the land bearing Khewat No.33, Khatoni No.79, Khasra No.22R9 11/1 total measuring 8 Kanals 5 Marlas situated at Village Sehowra Khurd, Hadbast No.96, Tehsil Pathankot, District Gurdaspur to the effect that the plaintiff-respondents were entitled to possession of 4 Marlas of land as shown in the site plan (Ex.P2) in blue colour. It was averred in the plaint that the portion marked DCEF in the site plan was encroached by one Ramesh Lal son of Amar Nath out of the khasra numbers in dispute and a separate suit is being filed regarding that. It was further

averred that when the family of the plaintiff-respondents was out of station, the defendant-appellant herein encroached upon the portion marked ABCD and constructed a wall, a lavatory and a septic tank in the area fully described in the head note of the plaint and shown as red in the site plan. Despite repeated requests, the defendant-appellant did not remove the encroachment. Hence, the suit.

3. On notice the defendant-appellant filed his written statement raising various preliminary objections qua suppression of facts etc. On merits it was stated that the plaintiff-respondents had no concern with the suit land as the same was under the control and management of the Gram Panchayat and more than 100 houses are there in the *abadi* and the suit land forms part of the same. It was further the case that several people had settled there and raised their *pucca* houses and havelis without any connection and to the exclusion of the plaintiff-respondents since time immemorial.

4. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiffs are entitled to permanent injunction as prayed for ? OPP
2. Whether the plaintiffs are entitled to suit for possession as prayed for ? OPP
3. Whether the suit of the plaintiffs is not maintainable in the present form ? OPD
4. Whether the present suit is liable to be dismissed with heavy cost ? OPD

5. Whether the suit is bad for non-joinder of necessary parties ? OPD

6. Relief.

5. The Trial Court decreed the suit vide judgment and decree dated 13.11.2014. Aggrieved by the same an appeal was preferred by the defendant-appellant which appeal was dismissed by the First Appellate Court vide judgment and decree dated 12.12.2016. Hence, the present regular second appeal by the defendant-appellant.

6. The learned counsel for the defendant-appellant would contend that the defendant-appellant is in possession of the suit land as a matter of right and that the plaintiff-respondents had no right, title or interest in the same.

7. Heard.

8. In the present case a demarcation (Ex.P1) was carried out which reveals that 4 Marlas of land was under the illegal possession of the defendant-appellant. As per the revenue record, the plaintiff-respondents are reflected as owners of the said land. The Local Commissioner on an application by the plaintiff-respondents had prepared a plan (Ex.P2) showing the encroachment which was under the illegal possession of the defendant-appellant. However, no objections were filed by the defendant-appellant to the said Local Commissioner's report. The defendant-appellant even chose not to cross-examine the Local Commissioner. Further, one of the witnesses of the defendant-appellant, namely, Asha Nand (DW-2) while appearing in the witness box, in his cross-examination, admitted the entire case of the plaintiff-

respondents to the extent that they were owner of the land measuring 11 Marlas comprised in Khasra No.22R/9 and 11/1 and the site plan (Ex.P3) correctly showed the construction of the wall, septic tank and lavatory. He further admitted that the defendant-appellant had made the said construction in the absence of the plaintiff-respondents about 7-8 years ago. Even the encroachment was also admitted by this witness. In view of the demarcation report (Ex.P1), the plan of encroachment (Ex.P2), the site plan (Ex.P3) and the statement of Asha Nand (DW-2), no fault can be found with the impugned judgments and decrees passed by both the Courts concerned. No other point was argued.

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

02.09.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No