



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

RSA-5769-2018 (O&M)
Reserved on : 21.01.2025
Date of Decision : 06.02.2025

RAVINDER SINGH SAINI ... Appellant

VERSUS

NANDA BALLABH BHATT & ANR. ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Tejas Bansal, Advocate for the appellant.

ALKA SARIN, J.

1. The present appeal has been preferred by the plaintiff-appellant challenging the judgments and decrees dated 19.04.2017 and 14.11.2017 passed by the Trial Court and the First Appellate Court, respectively, dismissing his suit for permanent injunction.
2. The brief facts relevant to the present *lis* are that the plaintiff-appellant filed a suit for permanent injunction against the defendant-respondents averring that he is a co-sharer and in possession of the suit land and that the defendant-respondents have no concern, right or title over it. It was alleged that the defendant-respondents wanted to raise construction over the portion of the plaintiff-appellant though the suit land had not been partitioned till now and though the plaintiff-appellant had requested the defendant-respondents several times not to raise construction without any partition, but they did not pay heed to his requests. Hence, the suit. The defendant-respondents filed written statement raising preliminary objections regarding maintainability, cause of action, locus standi, estoppel, concealment

of true facts, mis-joinder and non-joinder of necessary parties, limitation, proper court fees and jurisdiction. On merits it was submitted that the plaintiff-appellant is not a co-sharer in the suit land and has no concern with the same. According to the defendant-respondents the Smt. Dhanoli Devi (wife of defendant-respondent No.1 and mother of defendant-respondent No.2) had purchased a plot measuring 3 Marlas out of the land measuring 04 Kanals in khasra no.4852/1 (4-0) and the same was adjoining to other land in which the plaintiff-appellant along with some other persons had carved out a colony by the name of 'Om Enclave'. The sale deed in favour of Smt. Dhanoli Devi was dated 10.03.2015 for Rs.10,12,000/- and Mutation No.12505 dated 25.6.2015 was also sanctioned in her favour. Earlier the plot was owned by Smt. Sheela Kumari. According to the defendant-respondents the plaintiff-appellant was an anti-social element and land grabber. He and his accomplices carved out colonies and sold plots to the innocent public and then involved them in unnecessary litigation to extract money. The plaintiff-appellant had earlier filed a suit titled as Ravinder Saini Vs. Smt. Sheela etc. along with injunction application which was dismissed by the civil court. Another suit titled Ravinder Singh Saini Vs. Municipal Corporation Hisar etc. filed by the plaintiff-appellant held that the residents of Om Enclave are fully entitled to get the civic amenities, and the stay application of the plaintiff-appellant herein was dismissed. It was submitted that the suit land is part of a colony which was carved out many years back and all the civic amenities had already been provided by the Government. Replication was filed reiterating the contents of the plaint and denying those of the written statement.

3. On the basis of pleadings of the parties the following issues were framed by the Trial Court :

1. Whether the plaintiff is entitled to decree for injunction as prayed for in the head note of the plaint ?
OPP
2. Whether the suit of plaintiff is not maintainable in the present form ? OPD
3. Whether the plaintiff is estopped by his own act and conduct to file the present suit ? OPD
4. Whether the plaintiff has no cause of action to file the present suit ? OPD
5. Whether the plaintiff has no locus standi to file the present suit ? OPD
6. Whether the plaintiff has not come to the Court with clean hands ? OPD
7. Whether the suit of plaintiff is bad on account of non-joinder and mis-joinder of necessary parties ? OPD
8. Whether the suit is barred by limitation ? OPD
9. Whether the Civil Court has got no jurisdiction to try and entertain the present suit ? OPD
10. Relief.

4. The Trial Court dismissed the suit vide judgment and decree dated 19.04.2017. Aggrieved by the same, an appeal was preferred by the plaintiff-appellant which appeal was also dismissed by the First Appellate Court vide

judgment and decree dated 14.11.2017. Hence, the present regular second appeal.

5. Learned counsel for the plaintiff-appellant would contend that the Courts below have erred in dismissing his suit. It is urged that the plaintiff-appellant was a co-sharer in the suit land and therefore the defendant-respondents ought to have been restrained from raising construction without getting it partitioned. Learned counsel argued that the Courts have erred in non-suiting his claim. Along with the appeal, an application (CM-15843-C-2018) has been filed under Order 41 Rule 27 read with Section 151 CPC for placing on record Annexures A-1 to A-3.

6. I have heard the learned counsel for the plaintiff-appellant and perused the record.

7. In the present case, on a cumulative reading of the pleadings and oral and documentary evidence produced on the file, it is not established that the plaintiff-appellant is entitled to the grant of injunction. The plaintiff-appellant has not been able to establish that the suit land in Khasra No.4852 is unpartitioned. The defendant-respondents had raised a specific objection that the owner of the suit land was Smt. Dhanoli Devi (wife of defendant-respondent No.1 and mother of defendant-respondent No.2). The plaintiff-respondent did not take any steps to implead the said Smt. Dhanoli Devi as a party in the suit. Rather, a stand was taken that the sale deed in her favour was null, void and illegal. However, the suit was never amended to challenge the sale deed. Further, both the Courts have enumerated the multifarious litigations initiated by the plaintiff-appellant which involved the same Khasra

No.4852. The plaintiff-appellant was unsuccessful in each and every such proceeding. The Trial Court found that :

“13. The plaintiff alleges himself to be a co-sharer of the suit land and asking for injunction against the defendants on the ground that suit land has not yet been partitioned. However, this Court finds that he has come to this Court not with clean hands and he himself has carved out plots and colony in the suit land. The relief of injunction is an equitable relief and can be given only to a person who has come to the Court with clean hands. In earlier civil suit titled as Ravinder Singh Vs. Om Parkash etc. date of institution 26.4.2013, which was got dismissed as withdrawn. He again filed another civil suit titled as Ravinder Singh Saini and M.C etc. in which while dismissing injunction application, the then Learned Civil Judge (Jr.Divn), Hisar Sh. Parteek Jain, in order dated 5.5.2014 in para no.9 found that the plaintiff in case titled as Ravinder Kumar Vs. Vinay Kumar etc. civil case No.68-C dated 13.9.2007, in his plaint mentioned that khasra no.4848, 4850, 4851, 4852 (present suit land) is in joint ownership of the parties to the suit and has been colonized and roads are built upon it. So there is clear cut admission of the plaintiff in that suit that the suit

property has been colonized by them. It was further found that in another suit titled as Ravinder Singh Saini Vs. Surender Singh etc. case bearing No.494-C, date of decision 28.2.2013, Learned Court of Sh. Arvind Kumar Bansal, the then Learned Civil Judge (Jr.Divn), Hisar in its judgment in para no.19 has found that total suit land has been colonized in the shape of plot and colony's name is Om Enclave New Model Town Extension, Hisar. The Learned Court also observed in para no.10 of the order that the suit property has been colonized and partition. He also found that in the Judgment dated 26.10.2013, passed by Learned Civil Judge (Sr.Divn), Hisar vide which three cases were decided in a single Judgment titled as Ravinder Vs. Om Parkash, regarding the land comprised in khasra no.4848, 4850, 4851, 4852, it has been mentioned in para no.28 of the judgment that the plaintiff has constructed the house and availing the facility of sewerage electricity etc. Therefore, finding a prima facie case that the suit land has been partitioned and colonized no injunction order was granted in favour of the plaintiff against the defendants from raising any construction etc.

14. Similarly, in another Civil suit titled as *Ravinder Singh Saini Vs. Sheela Kumari etc.* civil suit no.55-C /2012, the then Learned Civil Judge (Jr.Divn), Hisar Sh. Nishant, in order dated 16.3.2012 in the injunction application found that the plaintiff himself in his application for electricity application has admitted the plot as situated in Om Enclave and thus he admits the carving out of the colony. He also found that plots have already been carved out over the suit property and he himself has raised construction over one of them and therefore, he was not permitted to restrain other co-sharers from raising any construction over any other plot as per their share. This suit was finally got dismissed for want of prosecution and in default as plaintiff later on did not appear when the case was pertaining for PWs and last opportunity was given.”

In appeal, the First Appellate Court held that :

“The plaintiff alleges himself to be a co-sharer of the suit land and asking for injunction against the defendants on the ground that suit land has not yet been partitioned but from the perusal of the earlier suits filed by the plaintiff titled as *Ravinder Singh Vs. Om Parkash etc., Ravinder Singh Saini and M.C and Ravinder Kumar Vs. Vinay Kumar etc.,* it is

evident that the plaintiff admits that khasra no.4848, 4850, 4851, 4852 (present suit land) is in joint ownership of the parties to the suit and has been colonized and roads are built upon it. Thus, there is clear cut admission of the plaintiff in that suit that the suit property has been colonized by them.”

8. Learned counsel for the plaintiff-appellant has been unable to show any relevance of the documents Annexures A-1 to A-3 filed with the application (CM-15843-C-2018). The same have no bearing regarding the issue of injunction involved in the case. There is no mention about the devolution of the plaintiff-appellant's purchase in the plaint itself and therefore introduction of evidence to substantiate something not part of the pleadings cannot be allowed.

9. It has been held by both the Courts that the plaintiff-appellant is a mischievous person who is constantly filing civil suits against other owners for restraining them from raising any construction whereas the plaintiff-appellant himself has raised construction and carved out a colony on land including the suit land. The Trial Court imposed costs of Rs.25,000/- on the plaintiff-appellant while dismissing his suit. It is a matter of concern that frivolous and unjust litigations are on the increase. Litigants should not put forth false, frivolous, vexatious, and unjust contentions to obstruct the path of justice. The plaintiff-appellant suppressed information with regard to the previous litigation regarding the same Khasra No.4852. He has unsuccessfully indulged in multifarious litigations against different parties on similar issues. The law is well settled that he who seeks equity must do equity and unless a

plaintiff comes to the Court with clean hands, he cannot get relief by way of injunction.

10. In view of the concurrent findings of fact returned by both the Courts, no fault can be found with the judgments and decrees passed by both the Courts. 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. The application for additional evidence (CM-15843-C-2018) is also dismissed. Other pending applications, if any, also stand disposed off.

06.02.2025
Aman Jain

(ALKA SARIN)
JUDGE

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