



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

RSA-2756-2022 (O&M)

Reserved on : 23.09.2025

Pronounced on : 28.10.2025

JAGTAR SINGH AND ANR.

... Appellants

VERSUS

AMAR NATH AND ORS.

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Prashant Bansal, Advocate for the appellants.

ALKA SARIN, J.

1. The present regular second appeal has been preferred by the plaintiff-appellants challenging the concurrent findings of facts returned by the Trial Court vide judgment and decree dated 28.02.2020 and the First Appellate Court vide judgment and decree dated 07.09.2022.

2. The brief facts as relevant to the present *lis* are that the plaintiff-appellants herein filed a suit for simplicitor permanent injunction restraining the defendant-respondents from forcibly dispossessing the plaintiff-appellants and further for restraining them from interfering in the peaceful possession of the plaintiff-appellants over the *Bara* situated in the Abadi of Village Hadiatpura, Tehsil Rajpura, District Patiala as detailed in the plaint. It was the case set up by the plaintiff-appellants that they are in peaceful possession of the suit property i.e. a *bara* shown as ABCD in the site plan which was being used by the plaintiff-appellants for placing *Ruries*, *Gohara* and other miscellaneous items. Six trees were also standing on the suit property. The description of the suit property was given. It was stated that the defendant-

respondents had no right, title or interest in the suit property.

3. On notice the defendant-respondents filed their written statement raising various preliminary objections. It was the stand taken that the site plan was depicting an incorrect position. On merits it was stated that the plaintiff-appellants are not in possession over the *Bara* marked as ABCD and that the plaintiff-appellants have produced the wrong site plan in Court. It was further the stand taken that the plaintiff-appellants were neither the owners nor in possession of the suit property marked as ABCD and that they had filed the present suit with an intention to forcibly oust the defendant-respondents from their own property which is owned and possessed by the defendant-respondents. It was further the stand that the site in question was comprised in Khasra No.272 (4-9) left behind by Mukhbain Singh son of Makhan Singh for the construction and extension of a Gurudwara Sahib and that the suit property was part of the same Khasra number.

4. In the replication the averments made in the written statement were controverted and those in the plaint were reaffirmed.

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

1. Whether the plaintiffs are entitled to relief of permanent injunction as prayed for ? OPP
2. Whether plaintiffs have not come to the Court with clean hands ? OPD
3. Whether suit of the plaintiffs is not maintainable in the present form ? OPD
4. Relief.

6. The Trial Court vide the judgment and decree dated 28.02.2020 dismissed the suit of the plaintiff-appellants. Aggrieved by the same an appeal was preferred by the plaintiff-appellants which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 07.09.2022. Hence, the present regular second appeal by the plaintiff-appellants challenging the concurrent findings of facts returned by both the Courts concerned.

7. The learned counsel for the plaintiff-appellants would contend that both the Courts have erred in dismissing the suit. It is urged that there is sufficient evidence on the record to show that the plaintiff-appellants were in possession over the *Bara* and that the evidence which was produced on the record has not been appreciated by both the Courts concerned.

8. I have heard the learned counsel for the plaintiff-appellants.

9. In the present case the plaintiff-appellants were required to prove that they were in possession of the suit property. Being a suit for simplicitor permanent injunction, only the possession of the plaintiff-appellants was to be seen in the present case. A perusal of both the judgments and decrees passed by the Trial Court and the First Appellate Court reveals that the plaintiff-appellants miserably failed to prove that they were in possession of the *Bara* on which they claimed to have been placing *Ruries*, *Gohara* and other miscellaneous items. The case as set up by the plaintiff-appellants was that the suit was filed for the *Bara* without giving any Khasra number and mentioning only the description of the property. However, Jagtar Singh (plaintiff-appellant No.1), when he stepped into the witness box as PW2, stated that the property was comprised in Khasra No.272. As per the jamabandi for the year 2009-10 (Ex.P2), the property is shown to be in the

ownership of Mukhbain Singh half share, Suba Singh and Jagtar Singh have been shown owners to the extent of 1/4th share each. The property has been shown as a *Gair Mumkain Abadi* which is shown to be a joint property. Further still, the father of Jagtar Singh (plaintiff-appellant No.1 herein), namely, Virsa Singh, in his testimony stated that he does not know who is the owner of the property shown as ABCD in the site plan. He also could not tell as to who is in possession of the said property. In the absence of any cogent and reliable evidence to show that the plaintiff-appellants were in possession of the suit property, no fault can be found with the judgments and decrees passed by both the Courts concerned.

10. No question of law, much less any substantial question of law, arises in the present regular second appeal. This Court does not find any ground to interfere with the concurrent findings of facts recorded by both the Courts concerned. In view thereof, the present regular second appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

28.10.2025
Aman Jain

(ALKA SARIN)
JUDGE

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