



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

**RSA-3068-2024 (O&M)
DECIDED ON: 13.01.2025**

BUDH RAM

....APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Durga Dutt Sharma, Advocate
for the appellant.

VIKRAM AGGARWAL, J

This is plaintiff's appeal against the judgment and decree dated 18.11.2024 passed by the Court of learned District Judge, Palwal dismissing the appeal filed by the appellant-plaintiff against the judgment and decree dated 21.02.2023 passed by the Court of learned Civil Judge (Junior Division), Hodal vide which the suit filed by the appellant-plaintiff for permanent injunction was dismissed.

2. For the sake of convenience and clarity, parties shall be referred as per their original status.

3. The plaintiff Budh Ram filed a suit for permanent injunction restraining the respondent-defendants from interfering in the peaceful possession of the plaintiff over the house situated within the Abadi deh, Tehsil Hodal District Palwal (fully described in the plaint) (hereinafter referred to as the 'suit property'). It was the case of the plaintiff that he was in peaceful and continuous possession of the suit property since the time of his forefathers as an owner and had been using the same as a Nohra/residential house. It was alleged that defendant No.3, who was having



personal enmity with the plaintiff colluded with defendants No.1 and 2 as the defendants were bent upon to dispossess the plaintiff from the suit property.

4. Defendants No.1 and 2 (State of Haryana) opposed the suit. It was averred that pursuant to decision dated 03.04.2003 rendered by the Court of Additional District Judge, Faridabad, the plaintiff (defendant therein) had been directed to remove the construction raised by him within a period of three months and in compliance of the same, a team had been constituted to remove the encroachment from the suit property and the same was finally removed on 24.03.2006. It was averred that thereafter, the plaintiff had again encroached upon the suit property. On the matter having been reported, a team again reached the spot on 07.02.2017 for removing the encroachment. However, a request was made by the plaintiff that he would himself remove the encroachment within seven days but instead of removing the same, he filed the present suit. It was averred that the suit property was in fact a part of the land of Old Delhi Agra Road passing through village Banchari and the plaintiff had no concern with the same. It was averred that the land was under the ownership of the State of Haryana and the plaintiff was in unauthorized occupation of the same.

5. A similar stand was taken by defendant No.3. He, however, gave the details of the previous litigation. It was averred that Civil Suit No.189 of 1994 titled as '*Shiv Charan etc. Vs. Budh Ram*' had been filed which was decided vide judgment and decree dated 29.09.2001 passed by the Court of learned Civil Judge (Junior Division), Palwal. Against the said decision, an appeal was filed by defendant No.3 and vide judgment dated 03.04.2003, the appeal was accepted and the plaintiff herein was directed to remove the construction raised by him. The details of removal of construction and



subsequent encroachment were given in the written statement.

6. From the pleadings of the parties, the following issues were framed:-

“1. Whether the plaintiff is entitled to a decree for permanent injunction as prayed for? OPP

2. Whether the present suit is not maintainable? OPD

3. Whether the plaintiff has no locus standi and cause of action to file the present suit? OPD

4. Whether the plaintiff has not come with clean hands and suppressed the true and material facts from this Court? OPD

5. Relief.”

7. Parties led their respective evidence.

8. The trial Court dismissed the suit filed by the plaintiff and found the stand taken by the defendants to be true. It was found that after construction over the suit property having been demolished and possession having been handed over to the P.W.D. pursuant to judgment and decree dated 03.04.2003, the plaintiff had again encroached upon the suit property. It was also found that in fact another Civil Suit No.101 titled as '*Budh Ram Vs. Shiv Charan etc.*' had been filed by the plaintiff for permanent injunction regarding the same suit property by suppressing/concealing the Khasra numbers. This suit was also dismissed on 06.02.2018. It was found that under the circumstances, the plaintiff had not approached the Court with clean hands and accordingly, the suit was dismissed. The appeal preferred by the plaintiff against the said judgment and decree also found the same fate and the same was dismissed by the Court of learned District Judge, Palwal leading to the filing of the present second appeal.



9. I have heard learned counsel for the appellant.

10. Learned counsel for the appellant has contended that both the Courts below had erred in dismissing the suit filed by him. An effort was made to submit that the judgments under challenge are illegal and arbitrary.

11. However, on a pointed query raised by the Court as regards the previous litigation referred to in the judgments under challenge, learned counsel for the plaintiff had no answer and, in fact, he conceded about the said litigation. That being so, the plaintiff would have no case now. At the cost of repetition, it needs to be stated that the plaintiff was earlier evicted from the suit land pursuant to the judgment and decree dated 03.04.2003 Ex.D-1 and the construction was demolished on 21.04.2006 Ex.D-14/A. In fact, while appearing as PW-5, the plaintiff admitted in his cross-examination that he had encroached upon the suit property again. Further, he did not disclose about a suit having been filed by him in 2017 which was dismissed on 06.02.2018. It, therefore, means that the plaintiff did not approach the Court with clean hands. Under the circumstances, he would not be entitled to the grant of injunction. The First Appellate Court rightly came to the conclusion that the plaintiff had not been able to prove his case by leading cogent evidence and there was no documentary evidence to establish that the plaintiff was in lawful possession over the suit property. Even the site plan Ex.P-1 had been made by the Draftsman without seeing the document of title which was admitted by him in his cross-examination. In the considered opinion of this Court, there is no error in the judgments rendered by the Courts below warranting interference in second appeal on purely questions of facts.

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In view of the aforementioned facts and circumstances, I do not find any merit in the present appeal and the same is accordingly dismissed.

13.01.2025
Prince Chawla

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No