



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CM-8566-C-2023 in/and
RSA-4786-2016 (O&M)
Date of decision: 24.03.2026**

Kuldeep and others

...Appellant(s)

Vs.

Raj Singh

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Surinder Gandhi, Advocate
for the applicant/respondent.

Mr. Gobind Dhanda, Advocate
for the non-applicant/appellants.

NIDHI GUPTA, J.

CM-8566-C-2023

This is an application under Section 151 CPC filed by the applicant/respondent for vacation of status quo order dated 04.12.2019; and fixing the actual date of hearing in the main Appeal.

2. Heard.

3. In view of the reasons mentioned in the application, which is duly supported by an affidavit of the applicant/respondent, instant application is allowed; and the main case is taken up on Board today itself.

RSA-4786-2016 (O&M)

Present Second Appeal has been filed by the appellants/defendants against the concurrent judgments and decrees of



the learned District Courts; whereby suit filed by the plaintiff/respondent, for permanent injunction, has been decreed by both the District Courts.

2. Brief facts of the case are that the plaintiff had filed the present suit against the appellants seeking relief of permanent injunction restraining the defendants from interfering in the peaceful possession of the plaintiff and dispossessing the plaintiff from the Baithak/house (suit property) situated in abadi deh, as fully described in the plaint.

3. It was the pleaded case of the plaintiff that since the time of his forefathers, plaintiff is owner in possession of the said Baithak/house situated in abadi deh. It was averred that the electricity bills, water charges et cetera were regularly paid by the plaintiff. Now defendants wanted to dispossess the plaintiff from the suit property. Plaintiff had requested defendants not to do so. Finally, defendants had refused to accede to the request of the plaintiff. Hence, present suit for permanent injunction was filed on 18.08.2010.

4. Upon notice, defendants had resisted the suit by filing written statement and pleading that defendants are lawful owners in possession of suit property for long time. It was alleged that plaintiff had filed the present suit with ulterior motive to usurp the suit property which was owned and possessed by the defendants. It was contended that electricity bills, water charges, Chullah tax or photographs et cetera do not give any title over the suit property to the plaintiff. It was denied that the



defendants wanted to dispossess the plaintiff. Accordingly, dismissal of the suit was prayed for.

5. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Rohtak had decreed the suit of the plaintiff with costs vide judgment and decree dated 19.08.2014 in the following manner: -

“A decree for permanent injunction is hereby passed in favour of the plaintiff to the effect that defendants are restrained from interfering and dispossessing the plaintiff over the property in question forcibly and illegally.”

6. The Civil Appeal filed by the defendants was dismissed by the learned Additional District Judge, Rohtak vide judgment and decree dated 18.04.2016. Hence, present Second Appeal by the defendants.

7. It is *inter alia* submitted by learned counsel for the appellants that learned District Courts below were in error in non-suiting the appellants as they failed to appreciate that the plaintiff and the defendants are closely related being successors-in-interest of Sh. Bichha Ram. As such, both the parties are owners in possession of the suit property. It is submitted that learned District Courts have committed legal error by holding that the property in question is possessed by the plaintiff, whereas the plaintiff has failed to produce any documentary evidence to show either his ownership or possession over the suit property. Furthermore, it is admitted fact on record that between the suit property constituting Baithak and the house of the plaintiff, there is a gali of 5/5



feet wide. Thus, the suit property is not a part of the house of the plaintiff rather it is a separate building from the house of the plaintiff which is jointly possessed by the defendants as well as the plaintiff. Furthermore, admittedly Site Plan Ex.P2 was not prepared by Draftsman by visiting the spot rather it was prepared at the instance of the plaintiff. Plaintiff can derive no benefit by merely stating that electricity bills et cetera are issued in his name which do not in any manner prove the possession of the plaintiff over the suit property. Rather plaintiff has himself admitted in his evidence that possession is joint over the suit property.

8. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of District Courts be set aside.

9. *Per contra*, learned counsel for the respondent/plaintiff vehemently opposes submissions made on behalf of the appellants/defendants and submits that there are concurrent findings of fact returned by learned District Courts to the effect that plaintiff is in possession of the suit property. It is submitted that in a suit for permanent injunction, title is not to be determined; and plaintiff has veritably proved his possession over the suit property by leading conclusive and cogent evidence to this effect. He accordingly prays for dismissal of the present Second Appeal.

10. No other argument is raised on behalf of learned counsel for the parties. I have heard learned counsel and perused the case file in



detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellants.

11. In the present case, it has to be appreciated that admittedly suit property is situated within Lal Dora and, therefore, there is no revenue record to prove ownership of the respondent/either party over the suit property. Even otherwise, in a suit for permanent injunction, title is not to be determined and only possession has to be seen.

12. Perusal of the record of the case shows that plaintiff has proved his possession over the suit property by leading comprehensive and cogent evidence to this effect.

13. To prove his possession over the suit property, plaintiff has examined PW2 Ram Kishan Ex. Sarpanch who has duly deposed in his cross-examination that earlier the suit property was in the possession of father of the plaintiff, namely, Itbari. PW2 has also deposed that he personally knows father of the plaintiff, and Itbari was in the ownership of the suit property. PW2 has also stated that Site Plan was prepared in his presence. PW2 has further stated that electricity meter installed in the suit property is in the name of the plaintiff.

14. PW3 Ranbir has deposed that he knows both the parties; and from the very beginning, he had seen that Baithak in possession of the plaintiff. PW3 further deposed that electricity meter, food and water supply was managed by the plaintiff; and that all family members used to sit in Baithak and all food arrangements were made by the plaintiff.



15. PW6 Anil Kumar, LDC, UHBVNL has also deposed that electric meter is in the name of the plaintiff and that the same was installed in the year 1979 and plaintiff has been regularly paying the electricity bills qua the Baithak and the same has not been transferred till date.

16. In fact, even defendant No.1 namely Kuldeep, while appearing as DW1 has also admitted that in the Baithak there is only one meter; and bill of the said meter has been regularly paid by the plaintiff Raj Singh. DW1 in his cross-examination has also admitted that Site Plan Ex.P2 of the suit property is correct. As such, argument of the appellants that Site Plan has been prepared by the Draftsman at the instance of the plaintiff and not by visiting the spot, is untenable. DW1 has also admitted the presence of the plaintiff alongwith his wife and other family members as depicted in photographs Ex.P5 to Ex.P8. DW1 has also admitted the photographs Ex.P6 to Ex.P10 showing plaintiff and his family members in the suit property; thereby proving that suit property belongs to the plaintiff and his wife. DW1 has admitted in his cross-examination that he cannot produce any document to show his ownership or possession or that he has any other rights over the suit property.

17. DW4 Mukesh, Member of Panchayat has admitted that suit property falls in lal dora. He has further stated that in the village, a person who is in possession of the property falling in lal dora, is deemed to be owner and there is no ownership record.

18. Thus, factum of installation of meter is duly proved from the testimonies of PW1 plaintiff Raj Singh, PW2 Ram Kishan Ex. Sarpanch, PW6, DW1 defendant No.1 and DW4 Mukesh son of Ishwar.

19. On the basis of the above evidence, both the District Courts have given concurrent findings of fact that plaintiff is in possession of the suit property; that the electricity meter is in the name of the plaintiff; for which plaintiff is regularly paying bills; that defendants have failed to produce any record or any documentary evidence to show that they are having ownership alongwith possession.

20. As noted above in the suit for permanent injunction, it is not necessary for the plaintiff to prove the title or ownership over the suit property and only possessory rights have to be proved. From the evidence noted above, it is clear that plaintiff has successfully proved his possession over the suit property.

21. Ld. Counsel for the appellants is unable to dispute or controvert the above said facts and findings.

22. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned District Courts. Hence, present Second Appeal stands **dismissed**.

23. Pending applications, if any, stand disposed of.

24.03.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No