

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****224****RSA-1773-2014 (O&M)****Date of decision: 09.02.2026****Naurang Singh****...Appellant(s)****Vs.****State of Haryana and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ravinder Goel, Advocate and
Mr. Manoj Sharma, Advocate for the appellant.

Mr. Naveen Kumar Sheoran, A.A.G., Haryana.

NIDHI GUPTA, J.

Plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned Courts below; whereby suit filed by the appellant for permanent injunction, has been dismissed with costs by both the Courts below.

2. It was pleaded in the plaint that plaintiff is having 6 shops on the agricultural land/suit property. It was averred that plaintiff was tenant over the said land for the last more than 30 years. As he was having good relations with previous owners, plaintiff had purchased the land from the previous owners vide Sale Deed dated 08.10.2002 for valuable sale consideration of Rs.2,56,000/-. After purchasing the land, plaintiff had constructed the above shops. Mutation No. 172 was sanctioned in favour of the plaintiff with regard to the above land. The road near shops was constructed more than 30 years ago after demarcation; and defendants



were having full knowledge about the shops existing on the suit land. When the plaintiff had raised construction of shops, no one including the defendants had ever raised objection. But now defendants No.3 and 4 being the Executive Engineer and Sub Divisional Engineers, PWD, B & R, Ambala Cantt. had visited the shops of the plaintiff and declared that all shops would be demolished. Even a wrong and vague notice was served upon the plaintiff but the same was refused. Plaintiff had requested defendants not to take law into their own hands and not to extend threat to demolish shops, but the defendants did not pay any heed. As such, present suit was filed on 14.05.2005.

3. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Ambala, had dismissed the suit of the plaintiff with costs vide judgment and decree dated 28.03.2011. The Civil Appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Ambala vide judgment and decree dated 31.10.2013. Hence, the present second appeal by the plaintiff.

4. It is *inter alia* submitted by learned counsel for the plaintiff/appellant that the suit land had been purchased by the appellant for valuable sale consideration vide Sale Deed dated 08.10.2002 Ex.P7. However, learned District Courts have ignored the evidence produced by the appellant and have relied upon Demarcation Report produced by the respondents/defendants and observed that the plaintiff has encroached upon the land belonging to the Government which is adjoining to the road. It is submitted that learned District Courts could not have relied



upon the said Demarcation Report as it is proved on record that at the time of the demarcation, appellant was not present. Moreover, land mentioned in the Demarcation Report is totally different from the land of the plaintiff, as per the Sale Deed.

5. It is submitted by learned counsel for the appellant that the defendant/respondents produced on record Ex. D-1 copy of Jamabandi for the year 1998-99 wherein land comprised in 11//8/3/1 and 9/1 has been recorded as Gair Mumkin Sarak which had been constructed some time in 1971-72. On behalf of the defendants Sh Vikas Kumar SDE, PWD, B&R had appeared as DW-1. He has categorically stated that he has not seen the Aks Sajra of the road. He had also stated that the demarcation was not done in his presence. He also stated that on one side berm is 2-3 ft vacant whereas towards the side of the shops berm is 10-12 ft. He could not state as to whether the demarcation of the fields of the plaintiff was done or not. In view of such evidence on record, the finding as recorded is totally perverse and unsustainable.

6. Learned counsel for the appellant further submits that the other witness produced by the defendant is Sh. Kaptan Singh Field Kannungo as DW-2. He has categorically stated that when he went to the spot for demarcation, only chowkidar was present and he got the signatures of the chowkidar alone on the demarcation and he did not get the signatures of the Lambardar. He also stated that he did not see any entry of unauthorised possession in the record of the Patwari. He also stated that the site of pucca point was 7 acres away from the site in



dispute. No pucca point was fixed by the kannungo and therefore the alleged report of demarcation is no report in the eye of law. Thus, there is no worthy evidence to prove the encroachment made by the plaintiff appellant.

7. It is further submitted by learned counsel for the appellant that the courts below have failed to take into consideration that the plaintiff in order to prove his ownership had produced registered sale deed and the revenue record in the shape of jamabandis and khasra girdawari to prove his possession. The onus to prove that there was any alleged encroachment over the public land was upon the defendants, but the defendants miserably failed to prove the same and placed reliance upon their own demarcation report and there was no independent evidence to prove any kind of encroachment. The Courts below overlooked the said fact and instead returned findings that the plaintiff has not led any evidence to prove that he has not encroached the land in dispute. It is contended that therefore, there is no evidence produced by the defendants to show that plaintiff has encroached upon the land belonging to the Government. It is submitted that it is duly recorded in the impugned orders that defendants had admitted possession of the appellant over the suit property. It is contended that Sub Divisional Engineer, PWD, B & R, Ambala Cantt., while appearing as DW1 has duly admitted that *"After construction, some area of Government land remained vacant which was encroached by the plaintiff who constructed his shops."* It is submitted that therefore, plaintiff is in possession over the



suit property. It is submitted that accordingly, in this view of the matter, injunction could not have been denied to the plaintiff.

8. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

9. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions of learned counsel for the appellant.

10. It is the case of the appellant that he had purchased the suit property bearing khewat/khatauni No. 22 min/40 min, khasra No.11//2, 8/3/2, 9/2, by way of Sale Deed dated 08.10.2002, photocopy of which has been produced by the plaintiff as Ex.P7. Plaintiff has further contended that his possession over the suit property is proven from the evidence of DW1 Vikas Kumar Sub Divisional Engineer PWD (B&R), Ambala Cantt, who had stated that plaintiff has encroached upon the vacant Government land; and upon the evidence of DW2 Hakam Singh Kanungo, who has also stated that after demarcation of the land, it was found that plaintiff had encroached upon some Government land by constructing shops and boundary walls. It has been submitted that as it was admitted that appellant was in possession of the suit property, therefore injunction could not have been denied.

11. However, simultaneously, it has also been contradictorily contented by the appellant that the Demarcation Report Ex.D5 from which encroachment of the appellant over the suit property is



established, is not in respect of the suit land. It has come on record that as per the Demarcation Report Ex.D5, demarcation was conducted on 05.05.2005 of the land "*bearing khasra No. 11//8/3/1, 9/1 situated in Mauja Rangia*" on the direction of Tehsildar, Ambala. It is the contention of the appellant that the said Demarcation Report does not pertain to the suit land which is describable as "*khewat/khatauni No. 22 min/40 min, khasra No.11//2, 8/3/2, 9/2*"; and, therefore, it could not have been held by the District Courts that plaintiff had encroached upon the suit property; and, therefore, injunction could not have been denied to the plaintiff. A bare reading of the above shows that appellant has made contradictory submissions.

12. Notwithstanding the above, the impugned judgments reveal that plaintiff has not been denied injunction on the above stated ground; but on the ground that plaintiff has failed to prove his own case. Admittedly, plaintiff had not got any demarcation done to prove his case that he was only in occupation of the land as per the Sale Deed dated 8.10.2002. Relevant findings of the Civil Judge (Junior Division), Ambala contained in para 17 of the judgment dated 28.03.2011, read as under:-

"17. In the present case the plaintiff has sought injunction restraining the defendants from interfering and demolishing the shops of the plaintiff. However, the plaintiff has not got any demarcation done in the said land though it was the duty of the plaintiff to prove his case. The only documents on which the plaintiff is relying upon is the demarcation report which was got done by the defendants. Further the property of the plaintiff is totally different from the property



mentioned in the demarcation report. Perusal of the demarcation report shows that the plaintiff was encroached upon the land which belongs to the government and is adjoining the road. There is a sale deed in favour of the plaintiff but the khasra number of the sale deed is totally different from the land of the defendants. Hence, it seems that the plaintiff has encroached upon the land adjoining the road and has thereafter constructed the shops on the said encroached land. Further the plaintiff has not given any proof with regard to his possession over the said khasra number. In view of this discussion, the findings on these issues are recorded against the plaintiff and in favour of the defendants.”

13. Learned Additional District Judge, Ambala in para 10 of the judgment dated 31.10.2013 has observed as under: -

“10. Keeping in view the arguments raised by the learned counsel for the parties and perusing the record carefully, it came into notice that the appellant has purchased the land measuring 10K-01M bearing Khasra Nos. 11/12, 8/3/2 and 9/2 by virtue of sale deed dated 08.10.2002 Ex.P7 on the file. The claim of the appellant is on the basis of the site plan Ex. P1. No doubt site plan Ex.P1 has been proved by PW1 Atul Kumar Sharma but it is necessary on the part of the appellant to connect the site plan with the land which is under his ownership in view of the document Ex.P2 Jamabandi for the year 1998-99, Ex.P7 Sale deed dated 08.10.2002 and Ex.P8 Mutation. No demarcation report of any kind was filed by the appellant to connect the land which has been shown in the site plan with the land under his ownership in view of the document Ex.P7 and subsequent revenue record. While on



other hand, defendants tendered the Jamabandi for the year 1998-99 Ex.D1 on record which speaks that the land comprising Khasra No.51 Khatauni No.83 min, Murabba No.11/8/3/1 and 9/1, total land measuring 1K-17M is under the ownership of the PWD Department Haryana. The document Ex.D2 is the application moved by the respondent to the Tehsildar Ambala for the demarcation of the land comprising in the above mentioned khasra and killa numbers. The Tehsildar Ambala conducted the demarcation and submitted the report Ex.D3 and Ex.D4. The report of the local commissioner Ex.D3 speaks that the appellant has encroached upon the land which is under the ownership of the respondent in view of the jamabandi for the year 1998-99 Ex.D1 on record. Ex.D4 also speaks that Naurang Singh was present at the time of demarcation who refused to sign the memo of appearance. Any how, it is upto the appellant to prove this fact that the land which has been shown in the site plan Ex.P1 belonging under the ownership and possession of him which he has not proved on record. The report of the local commission has duly been proved by the DW2 Hakam Singh Kanungo in accordance with law. Apparently, the appellant has failed to prove his case by adducing sufficient evidence on record, therefore, in the said circumstances, the learned trial court has rightly passed the judgment dated 28.03.2011.”

14. I find no error in the concurrent findings and observations of the learned District Courts. Needless to say, it is established principle of law that case of the plaintiff has to stand on its own legs. The onus to prove his case is upon the plaintiff; and he cannot rely upon any weakness

in the defendant case. If the plaintiff fails to establish his case through his own evidence, the suit will fail irrespective of how weak the defence is.

15. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

16. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned District Courts. The present Regular Second Appeal is hereby **dismissed**.

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

09.02.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE