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

RSA-3826-2023 (O&M)

Date of Decision : 10.02.2026

JITENDER KUMAR

.... Appellant

VERSUS

DHARAMVIR AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanjiv Gupta, Senior Advocate with
Mr. Anuj Gupta, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

1. The present regular second appeal has been preferred by the plaintiff-appellant challenging the concurrent judgments and decrees dated 18.07.2023 passed by the learned Trial Court and dated 02.11.2023 passed by the learned First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellant herein filed a simplicitor suit for injunction for restraining the defendant-respondents herein from interfering in the property comprised in Khewat No.36 Khatoni No. 61 Khasra No.2921 min area measuring 1 Bigha 19 Biswa situated in Narnaul as per Jamabandi for the year 1989-90. The case set up by the plaintiff-appellant was that the father of the plaintiff-appellant had purchased half share of the property as fully described in the plaint vide sale deed dated 13.11.1987. It was further the stand taken that at the time of purchase, the initial owners had delivered the possession to the father of the

plaintiff-appellant over Khasra No.2921 min (1-19) and that the father of the plaintiff-appellant was owner and in cultivating possession of the said Khasra. It was the stand taken that the father of the plaintiff-appellant also had a decree in his favour dated 08.02.1995 passed in Civil Suit No.1219 of 1994. It was the further the stand that the defendant-respondents were trying to interfere forcibly in the property of the plaintiff-appellant. Hence, the suit.

3. Defendant-respondents filed their written statement raising various preliminary objections. On merits it was stated that initially the defendant-respondents along with Vikash and Vishal were owners in possession of 1/2 share in Khasra No.2961 and that the land acquisition proceedings were pending before the Court of ADJ, Narnaul for apportionment of compensation. It was further the case set up that the plaintiff-appellant was neither owner in possession of 1/2 share in 3 Bigha 10 Biswa land nor was he in possession of 1/2 share in 1 Bigha 19 Biswa land. It was further the case that the total land had decreased from 3 Bigha 10 Biswa to 3 Bigha 5 Biswa.

4. Replication was not filed. From the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to decree of permanent injunction as prayed for in the head note of the plaint ? OPP
2. Whether the present suit is not maintainable in present form ? OPD

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

4. Whether the present suit is barred by limitation ?
OPD

5. Relief.

5. The learned Trial Court dismissed the suit vide judgment and decree dated 18.07.2023. Aggrieved by the same an appeal was preferred by the plaintiff-appellant which appeal was also dismissed by the learned First Appellate Court vide judgment and decree dated 02.11.2023. Hence, the present regular second appeal by the plaintiff-appellant.

6. Learned senior counsel appearing on behalf of the plaintiff-appellant would contend that the plaintiff-appellant is in exclusive possession of Khasra No.2921 and being in exclusive possession, he is entitled to a decree for permanent injunction restraining the defendant-respondents from interfering in his possession.

7. Heard.

8. In the present case, on a query by the Court as to whether the proceedings qua apportionment are pending between the parties, learned senior counsel appearing on behalf of the plaintiff-appellant has candidly admitted that the apportionment proceedings are pending. Further still, it is to be seen that the categorical stand of the father of the plaintiff-appellant in the earlier suit was that he was in possession of half share in the property. Even in the present case the suit had been filed wherein it had been stated that half share of the property was purchased vide the sale deed dated 13.11.1987.

Having consistently taken the stand that the plaintiff-appellant was in possession of half share of the property, having purchased half share, the plaintiff-appellant cannot now claim exclusive possession of the said property. In any case part of the property has been acquired qua which apportionment proceedings are pending. The plaintiff-appellant ought to have resorted to his remedies in law by filing requisite suit for partition.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

10.02.2026
Aman Jain

(ALKA SARIN)
JUDGE

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