



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

**RSA-3709-2001 (O&M)
Decided on : 05.05.2025**

Balbir Chand

..... Appellant

Versus

Ram Lal

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Ms. Neha Jain, Advocate
for Mr. K.S.Dadwal, Advocate
for the appellant.

Mr. Arun Bansal, Advocate
for the respondent.

VIKRAM AGGARWAL, J (ORAL)

This is plaintiff's second appeal against the judgment and decree dated 07.08.2001, passed by the Court of Additional District Judge, Hoshiarpur, dismissing the appeal filed by the plaintiff against the judgment and decree dated 24.10.1998, passed by the Court of Civil Judge (Junior Division), Hoshiarpur vide which the suit for permanent injunction filed by the plaintiff was dismissed.

2. The plaintiff instituted a suit for permanent injunction restraining the defendant from interfering in his peaceful possession over a shop situated at Adda Kot Fatuhi, P.S.Mahilpur, Tehsil Garshankar, District Hoshiarpur which, as per the plaintiff, was constructed on the land owned by the defendant. It was claimed by the plaintiff that he was earning his



livelihood by selling meat in the said shop which he had reconstructed by spending a sum of Rs.30,000/-. It was pleaded that originally, one Tarlochan Singh, who was the Sarpanch of Village Dhada Kalan had put the father of the plaintiff in possession of the said shop in 1972-73 at a monthly rent of Rs.30/-. No rent deed was executed but rent was being paid regularly to the said Tarlochan Singh. The plaintiff claimed that he was a tenant of the defendant at a rent of Rs.30/- per month and that the rent had been paid upto 28.02.1997. It was averred that the defendant had been threatening to forcibly take over the possession of the said shop despite the fact that he had no concern with the same.

3. The suit was opposed by the defendant. In the written statement, it was averred that there was no shop and there was only a temporary wooden kiosk placed on the roadside in front of the plot of the defendant. The stand taken was that the plot had been purchased by the father of the defendant namely Bhag Mal from its original owner vide sale deed dated 17.02.1994 for a sale consideration of Rs.40,000/-. All averments made in the plaint were denied.

4. In the replication, averments made in the written statement were denied and those made in the plaint were reiterated.

5. From the pleadings of the parties, the trial Court framed the following issues:-

1. *Whether the plaintiff is in peaceful possession of the suit property shown as ABCD in the attached site plan ? OPP.*
2. *Whether the plaintiff is entitled to restrain the defendant from dispossessing him from the suit property ? OPP.*



3. *Whether the suit is not maintainable in the present form ?*
OPD.

4. *Relief.*

6. Parties led their respective evidence.

7. The trial Court dismissed the suit filed by the plaintiff and the appeal filed against the said decision was also dismissed, leading to the filing of the present regular second appeal.

8. I have heard learned counsel for the parties.

9. Learned counsel for the appellant-plaintiff submits that both Courts erred in dismissing the suit. It has been argued that the appellant had duly been able to prove that he was in possession of the shop and that the defendant was forcibly trying to dispossess him.

10. Per contra, learned counsel for the respondent submits that there is no illegality in the judgments warranting interference.

11. I have considered the submissions made by learned counsel for the parties.

12. The case set up by the plaintiff was that the wooden kiosk was situated in the plot of the defendant. It was also the case of the plaintiff that rent of Rs.30/- per month was being paid. No documentary evidence was produced on record to show that the plaintiff or his father were tenants of the defendant. Still further, the sale deed executed in favour of the father of the defendant did not talk about any kiosk in the plot purchased by Bhag Mal and to the contrary, it was stated that possession of the vacant site had been handed over. The receipts produced by the plaintiff were of the Shopkeeper



Union, Adda Kot Fatuhi, Hoshiarpur and that too in the name of the father of the plaintiff. Both Courts concurrently found that the plaintiff had failed to prove his possession over the wooden kiosk and, therefore, rightly non-suited the plaintiff. Absolutely no occasion arises for this Court to interfere in the concurrent findings of facts recorded by both the Courts. At the cost of repetition, it needs to be mentioned that no evidence whatsoever was produced by the plaintiff to prove his possession over the wooden kiosk or that the wooden kiosk was situated over the plot owned by the defendant.

In view of the same, no occasion arises to interfere in the concurrent findings of facts recorded by both the Courts. Accordingly, finding no merit in the present appeal, the same is dismissed.

Pending application(s), if any, stand(s) disposed of accordingly.

05.05.2025

mamta

(VIKRAM AGGARWAL)

JUDGE

Whether speaking/reasoned

Whether Reportable

Yes/No

Yes/No