

**110 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-282-2019 (O&M)****Date of Decision: April 30, 2025****Jaspal Singh****. . . . Appellant**

Vs.

Tarsem Singh

. . . . RESPONDENT**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA****Present:-** Mr. Karanjit Singh, Advocate for the appellant.**DEEPAK GUPTA, J.**

Claiming to be in possession of the suit property for the last more than 20 years and alleging interference in his possession on part of the defendant, plaintiff – Jaspal Singh (*appellant herein*) filed the suit seeking decree of permanent injunction. Defendant resisted the claim by pointing out that plaintiff had not disclosed the capacity in which he was allegedly occupying the house in dispute. Defendant further claimed to be owner in possession and prayed for dismissal of the suit.

2. Necessary issues were framed. Evidence produced by the parties was taken on record. The trial Court dismissed the suit on 15.09.2016 and the Appellate Court upheld the findings on 13.09.2018, thus dismissing the appeal of the plaintiff.

3. Assailing the aforesaid concurrent findings, the plaintiff has now approached this Court by way of present regular second appeal.

4. The only contention raised by learned counsel for the appellant is that the Courts below have not properly appreciated the evidence on record and defendant-respondent could not prove his possession.

5. This Court does not find any merit in the contention. Since, it is the plaintiff-appellant, who sought decree for permanent injunction by claiming to be in possession of the suit property, so onus was upon him to prove his lawful possession.

6. A perusal of the judgments of the Courts below would reveal that apart from other evidence on record, it was noticed that Smt. Balbir Kaur, the wife of plaintiff – Jaspal Singh had sold the suit property to defendant – Tarsem Singh by virtue of sale deed dated 24.09.2013. It was further found that wife of plaintiff had filed a suit against plaintiff bearing suit No.215 of 2007, which was decreed on 13.08.2009 and the appeal filed by the plaintiff was dismissed. During the execution of that decree, possession of the suit property was delivered to Smt. Balbir Kaur, i.e. wife of the plaintiff. All these facts were admitted by the plaintiff during his cross-examination.

7. In the face of aforesaid factual position, there could be no doubt in holding that plaintiff was not in possession, as was evident from his own admission and documentary evidence on record.

8. As such, this Court does not find any perversity and illegality in the concurrent findings of facts as recorded by the Courts below. Holding the present appeal to be devoid of any merit, the same is hereby dismissed.

April 30, 2025

Sarita

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No