



RSA-5277-2019 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**RSA-5277-2019 (O&M)****Date of decision : 20.2.2025**

Gurmukh Singh and another

... Appellants

VERSUS

Nachhattar Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kanwal Goyal, Advocate and
Ms. Sheena Dahiya, Advocate,
for the appellants.

PANKAJ JAIN, J. (ORAL)

The defendant is in appeal. The plaintiff filed suit seeking decree of permanent injunction restraining the defendant from interfering in his peaceful possession over the plot measuring 29 feet x 32 feet depicted by letters ABCD in the site plan attached with the plaint. As per the plaintiff, they are four brothers. One of his brothers namely Kuldeep Singh resides in village Khuni Majra, Tehsil Kharar. The agricultural land and *abadi* property in village Khuni Majra stand partitioned among the brothers. The plaintiff is in possession of the plot in dispute inherited by him from his father namely Sarja Singh. He is in possession of the same for the last 35 years. The defendant has no concern with the suit land to interrupt peaceful possession of the plaintiff.

2. The suit was contested by the defendant who claimed that the plot was purchased by them from brother of the plaintiff namely Pal Singh



vide agreement to sell dated 15.9.2008 for consideration of ` 5,50,000/-. Possession stands delivered and the sale deed stands executed on 1.10.2008 after filing of the suit. The defendant claimed that the plot in dispute having fallen to the share of Pal Singh and possession thereof having been delivered to them, the plaintiff has no right, title or interest in the same.

3. On the basis of the pleadings of the parties, the following issues were framed : -

1. *Whether the plaintiffs are entitled to permanent injunction, as prayed for? OPP*
2. *Whether the suit of plaintiff is not maintainable? OPD*
3. *Whether the plaintiff has no locus standi to file the present suit? OPD*
4. *Whether the plaintiff has not come to the Court with clean hands and concealed the true facts from the Court? OPD*
5. *Relief.*

4. Deciding issue No.1, the Court of first instance found that the plaintiff successfully proved his inheritance to the property in question. The defendant claimed to have come in possession under an unregistered agreement to sell. The witnesses examined by him could not prove his possession over the suit property. His vendor Pal Singh alias Jaspal Singh brother of the plaintiff appeared in the witness box as DW3. He admitted that *abadi* property stands partitioned among three brothers namely Pal Singh, Nachhattar Singh and Kuldeep Singh 10 years ago. He admitted that he got one house in the said partition which is adjoining to the house of



Kuldeep Singh, Kaka Singh on the other side and Nachhattar Singh on the third side. He admitted that he sold his house and plot to Nachhattar Singh which was adjoining the plot of Nachhattar Singh plaintiff. He failed to prove the boundaries of the property purchased by the defendant from him. There was only one property that fell to the share of Pal Singh which he admittedly sold to Nachhattar Singh. The Court of the first instance further found that DW2 Teg Singh Sarpanch of the village examined by the defendant admitted that the suit property is different from the property purchased by the defendant vide sale deed dated 1.10.2008. The distance between the property mentioned in the sale deed and the suit property is about 5-6 killas. The Court, thus, found that the plaintiff having successfully proved to be owner in possession, was entitled for injunction.

5. Dissatisfied, the defendant filed appeal. The Appellate Court found that the property, which is subject matter of suit depicted in the site plan Ex.P1, and the one described in the sale deed propounded by the defendant dated 1.10.2008 are different. The defendant having purchased different property from brother of the plaintiff namely Pal Singh vide sale deed dated 1.10.2008 had no right to interfere in the possession of the plaintiff over the suit property on the strength of sale deed. The appeal preferred by the defendant stands dismissed.

6. Mr. Kanwal Goyal has assailed the findings recorded by the Courts below. He relies upon the testimony of Nachhattar Singh plaintiff who appeared as PW1 and admitted that his brother Kuldeep Singh sold one property to Baljit Singh of village Kumbra. Baljit Singh further sold the said plot to the defendant. He, thus, submits that he plaintiff having admitted the



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case of the defendant, the Courts below erred in decreeing the suit filed by the plaintiff.

7. I have heard the counsel for the parties and have carefully gone through the records of the case.

8. Counsel for the appellant is not in a position to dispute that the entire case pleaded by the respondent in the written statement was based upon the plot purchased by Pal Singh brother of the plaintiff. Admittedly, the only plot purchased by appellant from Pal Singh is by way of sale deed dated 1.10.2008. He is not in a position to dispute that the boundaries as mentioned in the site plan attached with the plaint are different from the boundaries mentioned in the sale deed dated 1.10.2008 to describe the plot purchased by the defendant from Pal Singh. Thus, the Courts below rightly inferred that the property which forms subject matter of suit is different from the one purchased by defendant. Plaintiff having proved his right over the suit property by way of inheritance was entitled to decree of injunction.

9. In view of above, this Court finds that the Courts below rightly decreed the suit filed by the plaintiff rejecting the claim of the defendant. Having found no merits in the present appeal, the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

February 20, 2025
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No