



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

**RSA-5810-2019 (O&M)
Reserved on : 22.07.2025
Pronounced on : 05.08.2025**

Ashok KumarAppellant
State of Haryana & Ors.Respondents

VERSUS

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Chanderhas Yadav, Advocate for the appellant.

Mr. Sanjeev Kumar, Addl. AG Haryana
for respondent Nos.1 to 5.

ALKA SARIN, J.

1. The present regular second appeal has been preferred by the original plaintiff No.5 (plaintiff-appellant) against the judgements and decrees dated 04.02.2016 and 25.09.2019 passed by the Trial Court and the First Appellate Court dismissing the suit for permanent injunction with consequential relief of mandatory injunction.

2. The suit was filed by seven plaintiffs averring that their predecessor-in-interest, Dhannu s/o Mukh Ram, was Gair Marusi Mujara over the suit land and that after the death of Dhannu the plaintiffs had inherited the right of tenancy by way of succession. According to the plaintiffs they were in cultivating possession of suit land but the defendant-respondents wanted to oust them forcibly and illegally and construct a road through the suit land and also develop a park over it. Hence, the suit for permanent injunction with consequential relief of mandatory injunction. The suit was contested by the defendant-respondents. In their written statement defendant-respondent Nos.1 and 2 took the stand that the name of Dhannu as

gair marusi in revenue records was a bonafide mistake and that Dhannu had been ejected from the suit land in 1974. According to the defendant-respondents, Dhannu was cultivating the suit land during the period 1963 to 1971 but since he did not pay the rent, on 01.02.1973 a suit was filed against him for recovery of the rent and eviction. Dhannu was ejected from the suit land on 07.06.1974 and the revenue department handed over the possession to the State of Haryana through the Principal, Govt. Nehru College, Jhajjar in compliance with the order/judgment dated 01.05.1973. It was stated that Sh. Ram Parkash, Girdawar and Sh. Bhim Singh, Patwari had taken possession of the suit land from Dhannu and handed it to Govt. Nehru College, Jhajjar vide entry dated 07.06.1974 made in the rapat roznamcha.

3. From the pleadings of the parties following issues were framed by the Trial Court :

1. Whether the plaintiff is entitled for a decree for permanent injunction to restrain defendants perpetually from ousting the plaintiffs by force and unlawful means from suit land ? OPP
2. Whether the plaintiff is also entitled for a decree for mandatory injunction as a consequential relief directing the defendants to pay compensation as per market rate of land acquired for construction of bye pass road of Jhajjar ? OPP
3. Whether the suit of the plaintiff is not maintainable in the present form ? OPD

4. Relief.

4. Vide judgement and decree dated 04.02.2016 the Trial Court dismissed the suit of the plaintiffs. It was inter-alia held that the plaintiffs had failed to prove that they are gair marusi and in possession of the suit land. Out of the original seven plaintiffs, three (plaintiff Nos.3, 4 and 5) filed an appeal against the judgement and decree of the Trial Court. However, the said appeal was also dismissed by the First Appellate Court vide judgement and decree dated 25.09.2019. Hence, the present regular second appeal by the plaintiff-appellant i.e. the original plaintiff No.5 only.

5. Learned counsel for the plaintiff-appellant has contended that both the Courts have erred in dismissing the suit of the plaintiffs. It is urged that the revenue record proved that Dhannu was gair marusi on the suit land and after his death the plaintiffs had succeeded to his estate and therefore their suit for permanent injunction deserved to be decreed. It is also urged that the application of the defendant-respondents for correction of the revenue record stood rejected vide order Ex.P6 which fact has been ignored by both the Courts.

6. Heard counsel for the plaintiff-appellant and perused the record.

7. In the present case the suit of the plaintiffs has been dismissed by both the Courts. It has been found by the Courts that the plaintiffs had failed to prove their gair marusi status and their possession over the suit land. Infact, one of the plaintiffs - Anand Singh (original plaintiff No.4 and brother of the plaintiff-appellant herein) - while appearing as PW1 admitted that the ownership of the suit land was of the State Government and that

from 1975-76 till 2011 the suit land was auctioned every year and that once even he had taken the suit land via auction. That apart, the defendant-respondents produced on record the evidence showing leasing out of the suit land by them via auctions conducted annually. In the absence of any evidence led by the plaintiffs that they were in exclusive possession of the suit land, the Courts have rightly non-suited the plaintiffs in their suit for permanent injunction. The rejection of the application for correction of the revenue record vide order Ex.P6 would not come to the assistance of the plaintiff-appellant as the same has no bearing regarding possession of the suit land which is the single most important factor in a suit for permanent injunction.

8. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. No cogent and reliable evidence has been highlighted by the counsel for the plaintiff-appellant for this Court to take a contrary view from the one taken by both the Courts. No other point was argued.

9. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

05.08.2025

Ankur

(ALKA SARIN)

JUDGE

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