



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

**RSA-3571-2018 (O&M)
Reserved on : 16.07.2025
Pronounced on : 05.08.2025**

Devender & Another ...Appellants

VERSUS

Tula Ram ...Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Johan Kumar, Advocate for the appellants.

ALKA SARIN, J.

CM-9362-C-2018

1. For the reasons mentioned therein, the application seeking condonation of 246 days delay in refiling the appeal is allowed. The delay in refiling the appeal is condoned.

RSA-3571-2018

2. The present regular second appeal has been preferred by the defendant-appellants against the judgements and decrees dated 14.03.2016 and 08.03.2017 passed by the Trial Court and the First Appellate Court decreeing the suit of the plaintiff-respondent.

3. The suit for permanent injunction was filed by the plaintiff-respondent averring that he owned a house in Village Mandkol, Tehsil and District Palwal which he was reconstructing. However, the defendant-appellants were threatening and bent upon to interfere in the ownership and possession of the plaintiff-respondent and cause obstruction in the construction work of his house illegally, forcibly and without having any

right, title and authority. This was despite the fact that the defendant-appellant No.1 had no residential house within the abadi deh of Village Mandkol and was residing with his family members on his agricultural lands where he has his residential house. Hence, the suit for permanent injunction. In their joint written statement the defendant-appellants denied that the plaintiff-respondent was the owner and in possession of the entire house and the boundaries and measurements given by the plaintiff-respondent were denied. It was submitted that the plaintiff-respondent had wrongly shown more portion in his ownership and possession whereas the parties to the suit along with one Shri Ishri Parsad were owners and in possession of the house. The defendant-appellant No.1 also took a plea that he was in possession of a portion of the house in dispute being his ancestral house. It was also submitted that by way of demolition, the plaintiff-respondent intended to encroach upon the portion of respective houses of the defendant-appellants and Shri Ishri Prasad and also wanted to change the shape of the building by his illegal construction. No replication was filed by the plaintiff-respondent.

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

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

4. Whether the plaintiff has no locus standi to file the present suit ? OPD
5. Whether the plaintiff has no cause of action to file the present suit ? OPD
6. Whether the plaintiff is estopped from filing the suit by his own acts and conduct ? OPD
7. Whether the suit of the plaintiff is bad for mis-joinder of parties ? OPD
8. Relief.

5. Vide judgement and decree dated 14.03.2016 the Trial Court decreed the suit of the plaintiff-respondent. The appeal of the defendant-appellants was also dismissed by the First Appellate Court vide judgement and decree dated 08.03.2017. Hence, the present regular second appeal by the defendant-appellants.

6. Learned counsel for the defendant-appellants has contended that both the Courts have erred in decreeing the suit of the plaintiff-respondent. It is urged that the plaintiff-respondent and the defendant-appellant No.1 both owned a share in the suit land. While the plaintiff-respondent owned 1/5th share, Devender (defendant-appellant No.1), Ishri Parshad, Tara Chand and Hari Chand (defendant-appellant No.2) had 4/5th share in equal shares. It is further contended that the plaintiff-respondent had failed to prove his ownership over the suit land and therefore his suit should have been dismissed.

7. Heard counsel for the defendant-appellants and perused the record.

8. In the present case the suit of the plaintiff-respondent has concurrently been decreed by both the Courts. The plaintiff-respondent was found to being in possession of the house which he intended to reconstruct. Though the defendant-appellants took a plea that the house was ancestral, there is no evidence led by them to support this contention. There is also no evidence regarding their alleged possession over portions of the house. In a suit for injunction the Court is only concerned with the possession of the contesting parties. Before this Court also learned counsel for the defendant-appellants has been unable to show anything on the record to prove the possession of the defendant-appellants. Learned counsel for the defendant-appellants is unable to point to any substantial and reliable evidence on the record to dislodge the concurrent findings recorded by both the Courts. In the absence of such reliable evidence, the findings recorded by both the Courts cannot be faulted. No other point was argued.

9. In view of the above, no mistake or error of law or facts can be found with the judgments and decrees passed by both the Courts. 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