



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

133

**RSA-2418-2017 (O&M)  
Date of decision : 07.04.2025**

**Shyam Sunder Nagpal**

**..... Appellant**

**versus**

**Suresh Kumar Nagpal**

**..... Respondent**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. D.K. Prajapati, Advocate  
for the appellant.

None for the respondent despite service.

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**PANKAJ JAIN, J. (Oral)**

1. Defendant is in appeal.
2. Plaintiff filed suit for mandatory injunction claiming that he is owner of the suit property on the strength of sale deed dated 18.03.2005. Defendant who is real brother of the plaintiff was inducted as licensee in the disputed property. Plaintiff has terminated the license and is thus, entitled for decree of mandatory injunction in form of direction to the defendant to hand over vacant physical possession of the disputed property.
3. The suit was contested by the defendant claiming himself to be joint owner in possession of the suit property. Suit was dismissed by the Trial Court holding that the dimensions as exhibited in site plan Ex. P-1 do not match with the sale deed.
4. Plaintiff filed appeal. The Lower Appellate Court while reversing the finding on issue No.1 recorded by the Trial Court held as under:-



“11. The learned trial court, as is explicit from the perusal of para no.11 of the impugned judgment and decree, has primarily dismissed the suit of the plaintiff on the ground that proper site plan of the disputed property has not been placed on the file. The said finding of the trial court cannot be sustained in view of the fact that in the site plan Ex.P1, the dimensions of the disputed property have been mentioned to be 42 feet X 31 feet and the sale deed Ex.P2 dated 18.3.2005 is also regarding the property measuring 31 feet X 42 feet. Since, as per the stand taken by the defendant, he has claimed himself to be joint owner in possession of the disputed property, so, in these circumstances, there is no dispute or ambiguity regarding the disputed property. Since the respondent-defendant was inducted as a licensee and now his licence has been revoked by the plaintiff, so, certainly, the plaintiff is entitled to seek the decree of mandatory injunction asking the defendant to hand over the vacant possession of the disputed property to him. Accordingly, findings of learned trial court pertaining to issue no.1 are hereby set aside. As the plaintiff is entitled to a decree of mandatory injunction and he is proved to be owner of the disputed property, so, he has cause of action and locus standi to institute the present suit and the same is maintainable in the present form and accordingly, findings of learned trial court pertaining to issues no.2 and 3 are also set aside.”

5. Counsel for the appellant-defendant is not in a position to dispute that parties earlier litigated qua the title of the property. It is not disputed that in the earlier round of litigation, the matter travelled upto this Court in RSA No.5893 of 2014 and the appellant failed to prove



jointness of the estate. He failed to show that the that the property is a joint hindu family property or that it was purchased or constructed with the joint funds.

6. In view thereof, finding no merits in the present appeal, the same is ordered to be dismissed.

7. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

**(PANKAJ JAIN)  
JUDGE**

**07.04.2025**

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No