



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1719 of 2024(O&M)

Date of Order:12.05.2025

Vivek Kumar

.Appellant

Versus

Ravish Trehan and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Nanhera, Advocate
Mr. Aman Mehta, Advocate
Mr. Yogesh Vashisht, Advocate
for the appellant.

Mr. Adarsh Jain, Advocate
for the respondents.

ANIL KSHETARPAL, JUDGE (Oral)

1. The plaintiff assails the correctness of the concurrent findings of fact arrived at by the courts below while refusing to grant decree of permanent injunction restraining defendant no.1, from dispossessing him from the land measuring 1 kanal and 19 marlas comprised in Rect. No.61, killa No.16/2/1/(1-6) and 17/2/1(0-13).

2. In substance, defendant no.1, filed Civil Suit no.660 of 2007, on 15.11.2007 against Dagar Service Station and other defendants in which decree for possession was passed in favour of defendant no.1, on 15.05.2013. The aforesaid judgment and decree has become final. The appellant (plaintiff) claims to be in possession of the property being lessee from his grand father with respect to 1 kanal and 19 marlas land.

3. During the pendency of the suit, defendant offered to get the property demarcated in order to find 'as to whether the plaintiff has



encroached upon some portion of the property belonging to defendant no.1', however, he refused. Hence, defendant no.1, applied to the revenue authorities for demarcation which was carried out by Sadar Kanungo. It was found that the plaintiff has encroached upon the property belonging to defendant no.1. The aforesaid report was proved by examining DW4-Sumer Singh, Sadar Kanungo. Thus, both the courts held that though the plaintiff is in possession, however, he cannot frustrate the execution of the decree.

4. The learned counsel representing the appellant submits that the appellant is not party to the decree dated 15.05.2013. He further submits that the demarcation was not carried out in the presence of the appellant. He further submits that the land which has been leased in favour of the appellant is different.

5. This court has considered the submissions of the learned counsel representing the parties.

6. It is evident that both the courts have found that, in fact, the appellant has filed the present suit in collusion with Judgment Debtor-Dagar Service Station. Moreover, the appellant has not produced any evidence to rebut the demarcation report produced by the defendants. On the other hand, respondent no.1 has proved that the appellant has encroached upon his property.

8. Before granting an injunction, the court is required to apply three tests:-

- (i) Prima-facie case;
- (ii) balance of convenience;
- (iii) irreparable loss and injury.



9. Such tests cannot be overlooked only because the suit is being finally decided. In the present case, the plaintiff ultimately wants to frustrate the decree which has been passed in favour of the respondent. The senior revenue official has already found that the appellant has encroached upon the property belonging to the defendant.

10. It may be noted here that the appellant was given opportunity by the trial court to get the property demarcated, however, he refused. Hence, the appellant is not entitled to any benefit of the fact that the demarcation by DW4-Sumer Singh, Sadar Kanungo, was carried out in his absence.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

12. Dismissed.

13. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

May 12, 2025

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No