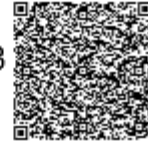


2025:PHHC:136528



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

Decided on:-25.09.2025

1. RSA-1421-2021 (O&M)

Ram Dhari ..Appellant...

vs.

Sant Lal ...Respondent.

2. RSA-1527-2021 (O&M)

Ram Dhari ..Appellant...

vs.

Sant Lal ..Respondent..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ram Pal, Advocate,
for the appellant.

HARKESH MANUJA J. (Oral)

1. This common judgment of mine shall dispose of above mentioned two appeals bearing RSA-1421-2021(O&M) and RSA-1527-2021 (O&M) as both these appeals have arisen out of the same judgments and decrees.

1.2 For convenience, the facts are being taken from RSA-1421-2021 (O&M).

2. By way of present appeal challenge has been laid to the judgments and decrees dated 10.02.2020 passed by the Court of Id.

Additional District Judge, Sonapat, whereby, two separate appeals were dismissed, which were preferred at the instance of appellant-plaintiff, assailing the judgments and decrees dated 13.12.2017 passed by the Id. Additional Civil Judge (Senior Division), Sonipat, vide which, Civil Suit No.79-2013 filed at the instance of appellant-plaintiff for permanent injunction, was dismissed and Civil Suit No.543-2013 filed at the instance of respondent-defendant for mandatory injunction, was decreed while directing the appellant to remove the iron gate from the suit property.

3. Briefly stating, two separate suit were preferred i.e. (i) Civil Suit No.79 of 2013, titled as “Ram Dhari vs. Santa” at the instance of appellant-plaintiff for permanent injunction restraining the respondent-defendant from interfering in his peaceful possession over the property, situated within the *abadi* of village Basaudi Purani and bounded as East-Kacha Gali, West-House of Rohtash son of Zile, North-House of plaintiff, Gher of Balak Ram Nai and Ramdiya Nai and South-Gher of respondent-defendant; and (ii) Civil Suit No.543-2013, titled as “Sant Lal vs. Ramdhari” at the instance of respondent-plaintiff seeking mandatory injunction from removal of iron gate of the suit plot.

3.1 In the suit filed at the instance of appellant-plaintiff, it has been pleaded that the appellant-plaintiff is in possession of the suit property which is near to his residential house situated within the *abadi* of village Basaudi Purani and the appellant-plaintiff has been using the same for all practical purposes since the time of his forefathers. It was further pleaded that the respondent-defendant threatened to dispossess the appellant-plaintiff illegally and forcibly from the suit property. Hence, the suit.

3.2. Upon notice, the respondent-defendant appeared and filed

written statement thereby denying that the defendant is bent upon to dispossess the appellant-plaintiff from the suit property. It was further denied that respondent-defendant ever threatened to include the suit property in his plot. Rather, it was submitted that the respondent-defendant was owner in possession as co-sharer and the suit property was being used by him for putting firewood, storing cows dung cakes etc. and for other similar purposes. It was also submitted that on 26.12.2012, respondent-defendant had gone to Pune in vehicle no.HR63A00582 and had to stay there upto 18.01.2013. Subsequently, he reached Delhi on 23.01.2013 and thereafter, his native place on 27.01.2013. Consequently, the appellant-plaintiff taking undue advantage of the absence of the respondent-defendant had installed an iron gate towards Northern side of the *gher* of respondent-defendant and towards southern side of the house of the appellant-plaintiff, without any authority.

3.3. On the basis of the pleadings of the parties, the learned trial Court framed the following issues:-

- “1. *Whether the plaintiff is entitled to the relief of permanent injunction thereby restraining the defendants from interfering into his peaceful possession over a plot in dispute? OPP*
2. *Whether the plaintiff has no cause of action and locus standi to maintain this suit in its present form? OPD*
3. *Relief.”*

4. The ld. Trial Court vide its judgment and decree dated 13.12.2017 dismissed the Civil Suit No.79-2013 preferred at the instance of appellant-plaintiff and decreed the Civil Suit No.543-2013 preferred at the instance of respondent-plaintiff, thereby, directing the appellant-plaintiff to

remove the iron gate.

4.1. Aggrieved thereof, two separate appeals came to be filed at the instance of appellant-plaintiff, which were dismissed by the Court of learned Additional District Judge, Sonapat vide judgment and decree dated 10.02.2020. Hence, the present regular second appeal.

5. Reiterating the plea taken before the Courts below, learned counsel for the appellant-plaintiff submits that the appellant-plaintiff has been continuing to be owner in possession of the suit property which is adjacent to his residential house within the *abadi* of village Basaudi Purani. The said land is being used for all practical purposes since the time of forefathers of appellant-plaintiff but the respondent-defendant, who is a strong headed and mischievous person is bent upon to dispossess the appellant from the suit property illegally and forcibly, with an ulterior motive to include the same in his plot. Learned counsel further submits that the learned Courts below did not take into consideration the documentary evidence produced by the appellant-plaintiff i.e. the site plan Ex.P-1, copy of application given to Police Post Garh Mirakpur (Mark A) and photographs as Mark B and C and thus, wrongly and illegally dismissed the suit. No other argument has been addressed. Learned counsel also submitted that on the contrary, the suit for mandatory injunction, filed at the instance of respondent was wrongly decreed.

6. I have heard learned counsel for the appellant and gone through the paper-book.

7. Admittedly and undisputedly, the suit property is situated within the *abadi* of the village, which is a vacant plot and since, property is vacant land, thus, possession follows title. Moreover, the description of the

property mentioned in para 1 of the plaint filed by the appellant-plaintiff does not correspond to the property depicted in the site plan Ex. P1. Consequently, the appellant has failed to establish identity of the suit property. Furthermore, the appellant did not even examine the draftsman to prove the site plan Ex.P1, whereas, the plea of respondent qua possession of the *gher* depicted as ABCDEF in the site plan was corroborated by DW2-Rajbir Singh and DW4-Mai Chand. The respondent also produced documentary evidence i.e. Ex.D6 to Ex.D8 (lorry receipts) to prove that on 26.12.2012 he had gone to Pune in vehicle No.HR63A00582 and stayed there upto 18.01.2013 and reached Delhi on 23.01.2013 and thereafter, his native place on 27.01.2013 and consequently, taking undue advantage of his absence, the appellant installed an iron gate. As such, the learned Courts below rightly directed the appellant to remove the iron gate installed at point 'P' on Northern side of the *gher*.

8. Accordingly, in view of the aforesaid discussion, finding no illegality or perversity in the concurrent findings of facts recorded by the Courts below; there being no misreading or misinterpretation of pleadings and the evidence available on records, the appeals being devoid of merits are thus, dismissed.

9. Pending application, if any, also stands disposed of.

25.09.2025

sonika

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/ No

(HARKESH MANUJA)
JUDGE