

**In the Court of Ms. Sarabjeet Kaur, Civil Judge (Jr.Divn.),
Hoshiarpur.
(UID No.PB0620).**

CIS No. : CS/577/2024
Date of Institution : 24.05.2024
CNR No. : PBHO020009882024
Date of decision : 07.05.2025

Vijay Verma son of Fakir Chand Verma resident of House No. 231, Ward No.6, near Gandhi Chowk, Hamirpur, Himachal Pradesh, through its special power of attorney Abhinav Kumar son of Vir Bhan, resident of House No.532, Street No.6, New Model Town, Jalandhar.

....Plaintiff

Versus

1. Renu Devi wife of Naginder Pal, resident of Naloyian Chowk, Dasuya road, Opp. Pappu Karyana Wala, Hoshiarpur.
2. Balwinder Singh son of Sodhi Singh resident of village Khunda, Hoshiarpur.

.... Defendants

Suit for permanent injunction restraining the defendants from interfering in the peaceful, continuing possession of plaintiff over 3 marlas 3 sarsahis comprising in khasra No.13//14 situated at Naloyian, Dasuya Road, Hoshiarpur and also for restraining defendants from changing the nature of suit property and for not raising construction in front of gate and gali of plaintiff and also demolish the construction in front of gate/gali of plaintiff and further the defendants be directed to pay cost of damages caused to raise the illegal construction in front of gate/gali which is shown red in site plan, East: Ram Krishan, West: Other, North: Other owners, South: Gali.

Present: Sh. Damanjit Singh, Advocate counsel for plaintiff
Defendants exparte

JUDGMENT

The plaintiff has filed instant suit with the averments that he is lawful owner in possession of suit property and is enjoying the fruits of same since long. Defendant No.1 is neighbour of plaintiff and defendant No.2 is friend of defendant No.1. The defendants have nothing to do with the property in question. Plaintiff is having water and sewerage connection installed by

Municipal Corporation. However defendants are trying to raise construction in front gate/gali of plaintiff for which they have no right to do the same as the same exclusively belongs to plaintiff. Plaintiff requested the defendants not to take the law into their own hands, but defendants are adamant to raise construction and trying to block the street of plaintiff. The situation was warded off by the respectable gathered at the spot. Hence, the plaintiff has got no other efficacious remedy available except to file the present suit. In case the defendants succeeded in their nefarious designs, plaintiff would suffer irreparable loss and injury, which cannot be compensated in terms of money. Hence, the present suit.

2. Notice of the suit as given to the defendants, who appeared through their counsel. Thereafter, when, the case was fixed for filing written statement and reply, none had appeared on their behalf and as such, they were proceeded against exparte vide order dated 14.02.2025 and case was fixed for exparte evidence of plaintiff.

3. In exparte evidence, plaintiff Vijay Sharma himself examined as PW1 and tendered his affidavit Ex.PW1/A, whereby he reiterated the entire contents of his plaint. Therefore, the contents of his testimony are not being reproduced here in detail for the sake of brevity. He further proved on record the copy of sale deed Ex.P3, photographs Ex.P4 to Ex.P6, Ex.P8 Aadhaar Card. He further examined PW2 Varun, who tendered his affidavit Ex.PW2/A, whereby he reiterated the entire contents of plaint. Therefore, the contents of his testimony are not being reproduced for the sake of brevity. He also proved copy of his Aadhaar Card Ex.P1. Further, plaintiff examined

PW3 Mohit Kumar, who tendered his affidavit Ex.PW3/A, whereby he reiterated the entire contents of plaint, therefore, same are not repeated here in detail for the sake of brevity. He also proved the copy of his Aadhaar card Ex.P7.

4. Thereafter, plaintiff closed his evidence vide his separate statement and case was fixed for ex parte arguments.

5. I have heard ld. Counsel for the plaintiff and gone through the record placed on file very carefully with his able assistance.

6. Perusal of the file shows that plaintiff filed the present suit for permanent injunction restraining the defendants from changing the nature of suit property and from raising construction in front of gate and gali of plaintiff and to demolish the construction in front of his gate/gali which is shown as red in site plan and described in the head note of plaint. Further, it is the case of plaintiff that he is lawful owner in possession of suit property situated at Naloyian, Hoshiarpur bearing Had Bast No.225, Khata No.363/389, Khasra No.13/14 and defendants have nothing to do with the said property, but they are trying to raise construction in front of gate/gali of the plaintiff without any right, forcibly and illegally. In order to prove his case plaintiff himself stepped into witness box as PW1 and proved on record documents i.e. copy of his Aadhaar Card Ex.P8, site plan Ex.P2, copy of sale deed Ex.P3, photographs Ex.P4 to Ex.P6. The other witnesses examined by plaintiff i.e. PW2 Varun and PW3 Mohit Kumar, who have placed on record copies of their respective Aadhaar cards as Ex.P1 and Ex.P7. No other documentary evidence like electricity bill, water and

sewerage connection, etc. has been led by plaintiff to prove his possession over the suit property. Although, copy of sale deed dated 03.06.2015 has been produced on record by the plaintiff as Ex.P3, but it does not prove the fact that now he is in possession over the suit property. The other documents produced on file do not prove the possession of plaintiff over the suit property. The sale deed alone does not definitively prove the possession. The possession can be proved through various means including sale deed but other evidence like actual occupancy, payment of taxes, utility bills, electricity bill, water and sewerage connection or a possession certificate may be needed to prove his possession, but, the plaintiff has failed to produce any such document to prove his possession over the property in dispute and mere production of photographs is not sufficient to prove his possession over the suit property. Even though, defendants are exparte in this case, but since the plaintiff has come to the Court to seek relief, it was incumbent upon him to prove his case by leading cogent and convincing evidence, but there is lack of the such evidence in this case. It is the contention of the plaintiff that defendants are raising construction at the spot. However, no evidence qua this fact has been lead by the plaintiff. No oral as well as documentary evidence has been lead by the plaintiff in order to prove that property in dispute with specific boundaries as mentioned in the head note of the plaint is under threat of title. It is a settled proposition of law that plaintiff has to prove his case and to stand on his own legs and he cannot take the benefit from the weakness of defendant or from the mere fact that the

defendant is exparte. Mere allegations cannot suffice the claim of plaintiff. Even if, there is no rebuttal of the claim of the plaintiff, it does not ipso facto entitle him to the relief sought for, without tendering even a single piece of evidence regarding his possession over the suit property. As such the plaintiff is not entitled to the relief of injunction as sought by him in the present case.

7. In light of discussion hereinbefore, the suit of plaintiff fails and the same is hereby dismissed exparte with no order as to costs. Decree sheet be prepared. File be consigned to Judicial record room, Hoshiarpur after due compliance.

Announced in open Court.

07.05.2025

baljinder

(Sarabjeet Kaur), PCS
Civil Judge (Junior Division)
Hoshiarpur.
UID No.PB0620

CIS No. CS/577/2024 CNR No.: PBHO020009882024

Vijay Verma vs Renu Devi.

Present: Sh. Damanjit Singh Advocate counsel for plaintiff
Defendants exparte.

Arguments heard. Vide my separate detailed judgment of even date, the suit of the plaintiff fails and the same is hereby dismissed exparte with no order as to costs as mentioned in the judgment. Decree sheet be prepared. File be consigned to Judicial record room, Hoshiarpur after due compliance.

Announced in open Court.

07.05.2025

baljinder

(Sarabjeet Kaur), PCS
Civil Judge (Junior Division)
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