

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

RSA No. 2387 of 1989

Date of Decision:-04.11.2015

Smt. Saroj Devi

.....Appellant

Versus

Raghubir

.....Respondent

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.

Present:- None for the appellant.

Mr. C.B. Goel, Advocate
for respondent.

SATISH KUMAR MITTAL, J.(Oral)

Plaintiff-Saroj Devi, has filed the instant regular second appeal against the judgment and decree dated 14.8.1989 passed by learned First Appellate Court whereby the suit of the plaintiff for permanent injunction to the effect that defendant be restrained from demolishing the wall shown by letters 'AD' in the site plan, had been decreed by the Trial Court after recording a finding that the said Wall 'AD' is exclusively owned by the plaintiff. On appeal filed by the defendant, the said judgment and decree of the trial Court was modified only to the effect that the wall 'AD' is a common wall of both the parties. However, as far as demolition of the said wall is concerned, the injunction has been granted because even the common wall of the parties cannot be demolished by either of the parties.

Therefore, in the present appeal, the only dispute remains is whether the disputed wall of the plaintiff is exclusively owned by the plaintiff or this is a common wall of both the parties?

The First Appellate Court, after appreciating the evidence available on record as well as the admission, has recorded a finding of fact that the disputed wall is a common wall of both the parties and held that the defendant has also a right to raise the construction on the disputed wall.

Learned counsel for the respondent has informed the Court that he has received a written message from his client that the matter has been amicably settled between the parties. It appears that for this reason nobody is appearing in the appeal on behalf of the appellant to argue the case.

In view of above, this appeal is hereby dismissed.

**(SATISH KUMAR MITTAL)
JUDGE**

04.11.2015
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