

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

**RSA No.3342 of 2011 (O&M)**

**Date of decision: 23.09.2015**

Vijay and others

... Appellants

Vs.

Naresh Pal and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Ms. Anita Balyan, Advocate  
for the appellants.

Mr. Gorakh Nath, Advocate  
for respondent No.1.

Ms. Vandana Sharma, Advocate, for  
Mr. Rajesh Lamba, Advocate  
for respondent No.5.

**AMIT RAWAL J. (Oral)**

Challenge in the present appeal is to the impugned judgment and decree of the lower Appellate Court, whereby the judgment and decree passed by the trial Court in decreeing the suit in favour of the appellant-plaintiffs, has been set aside.

Ms. Anita Balyan, learned counsel appearing on behalf of the appellant-plaintiffs submits, that as per sale deed dated 2.2.1977, adjacent to the property owned by the plaintiffs, it was a park. Defendants No.3 and 4 by taking the advantage of entry into revenue

record, sold the property vide sale dated 07.03.2005 to defendants No.1 and 2. It is in this context, the aforementioned suit for declaration and permanent injunction was filed. The lower Appellate Court has committed an illegality and perversity, in setting aside the well reasoned judgment and decree of the trial Court, inasmuch as the appeal at the instance of defendant No.2, who, was *ex parte* before the trial Court was, *ex facie*, not maintainable and, thus, the present appeal involves the substantial questions of law, to be adjudicated by this Court.

Mr. Gorakh Nath, learned counsel appearing on behalf of respondent/defendant No.1 submits that the plaintiffs have to stand on their own legs. Except the sale deed dated 2.2.1977, no other evidence has been proved or led, to show that adjoining to the property there was a park, thus, submits that there is no illegality and perversity, much less, no substantial question of law arises, to be adjudicated by this Court.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of the Courts below.

As per Section 101 of the Indian Evidence Act, the plaintiffs have to stand on their own legs. Except the sale deed, *ibid*, no other documentary evidence has come on record to show that adjoining property owned by the plaintiffs, there was a park. Neither any town planning scheme nor any document has been produced to show that the Municipal Committee carved out the said area as a

park which has, allegedly been, sold by defendants No.3 and 4 to defendants No.1 and 2.

There is another aspect of the matter. The Municipal committee has not come forward to challenge the same. Nothing prevented the appellant-plaintiffs to summon the witness from the concerned department/revenue authority to prove its case. Having not done so, in my view, the finding rendered by the lower Appellate is not vitiated in law.

In view of what has been observed above, I do not find any illegality, much less, perversity in the findings of the lower Appellate Court, and no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**September 23, 2015**  
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