

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2233 of 2012(O&M)

Date of decision : October 6, 2015

Braham Parkash

..... Appellant

Versus

Ram Narain and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arun Yadav, Advocate
for the appellant.

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

Amit Rawal, J (oral).

The appellant-plaintiff has impugned the judgment and decree of the lower appellate court whereby suit claiming damages by way of recovery of ₹1,16,000/- to the effect that in execution of the decree in a previously decided suit the respondents-defendants along with the bailiff had demolished the area beyond the decree.

Mr. Arun Yadav, learned counsel appearing on behalf of the appellant-plaintiff submits that though, the trial court decreed the suit, however, the lower appellate court has committed illegality and perversity in setting aside the well reasoned judgment and decree as there has been a mis-direction and mis-reading of the oral as well as documentary evidence.

He further submits that the site plan Ex.P-1 has not been noticed by the lower appellate court. The lower appellate court has completely been swayed away by the report of the bailiff Ex.D-4.

The bailiff was also impleaded as defendant in the present suit. Thus, prays that the appeal involves a substantial question of law for determination by this Court.

I have heard learned counsel for the appellant and appraised the paper book.

The site plan exhibited and proved in the previously instituted suit and the one placed in the record of the present suit are totally different and contradictory. In the previously instituted suit, the site plan shows only a small portion had been constructed whereas Ex.P-1, the site plan brought on record in the present case shows the entire area to be constructed. Once the site plans do not tally with each other, the appellant has not proved the extent of damages, therefore the lower appellate court has rightly dismissed the suit by relying upon the report of the bailiff.

I do not intend to differ with the finding rendered by the lower appellate court which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

October 6 , 2015
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