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

**RSA No.2585 of 2013 (O&M)
Date of Decision: 30.10.2015**

TAVINDER SINGH AND ANOTHER

.....Appellants

Vs

RAMESH KUMAR AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Malkeet Singh, Advocate
for the appellants.

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?*

RAJ MOHAN SINGH, J.(Oral)

[1]. Plaintiffs are in second appeal in a suit for permanent injunction.

[2]. Plaintiff No.1 is the father of plaintiff No.2 to 4. Mrs. Varinder Kaur wife of plaintiff No.1 and mother of plaintiffs No.2 to 4 purchased the suit land in the year 1991-92 from one Varinder Kumar vide registered sale deed dated 20.04.1998. It has been alleged that possession was also delivered to the plaintiff.

[3]. Mother of the plaintiffs No.2 to 4 i.e. Varinder Kaur died on 13.06.2005 and thereafter plaintiffs being heirs inherited the suit land.

[4]. Defendant is claimed to be a stranger to the property.

Threats at the instance of defendant ultimately entailed in filing the present suit for permanent injunction.

[5]. The defendant contested the suit on all customary pleas besides taking plea of ownership by virtue of sale deed Ex.D-1 vide which wife of defendant purchased the property in question (according to defendant). The plaintiffs have adduced the evidence in the form of death certificate, revenue record viz. *Jamabandi, Aksh Shajra* and copy of sale deed.

[6]. Defendant staked his claim to the extent of the property purchased by him and stated that he is not concern with the property of the plaintiffs.

[7]. In such like situation only demarcation was the proper mechanism through which the factum of any encroachment could have been brought on record. Apparently no demarcation has been conducted, nor any challenge has been made to the sale deed by the plaintiffs. The identity of the property with reference to the site plan, revenue record and demarcation could not be established by the plaintiffs.

[8]. Both the Courts below have appreciated the controversy and concluded that in the absence of material evidence on record, plaintiffs cannot succeed.

[9]. Plaintiffs have to stand on their own legs. They cannot take any benefit out of the weakness of the case of the defendant in any manner. Onus of issue No.1 was on the plaintiffs himself and they

have miserably failed to discharge the same.

[10]. The findings recorded by both the Courts below cannot be held to be perverse or the result of misreading of evidence in any manner.

[11]. Resultantly, no law point worth consideration is involved in this appeal, consequently finding no merit in this appeal, the same is accordingly dismissed.

October 30, 2015
Atik

(RAJ MOHAN SINGH)
JUDGE