

In the High Court for the States of Punjab and Haryana, at
Chandigarh

...

RSA-3590-2013(O&M)

Date of decision: 30.01.2015

Gulzar Ahmed and another Appellants

Versus

State of Punjab and others ..Respondents

Coram: **Hon'ble Mr. Justice Mahavir S. Chauhan**

Present: Mohd. Salim, Advocate
for the appellants.

Mahavir S.Chauhan, J.(Oral)

Judgment/ decree dated 31.10.2012 passed by the learned Additional District Judge, Ludhiana(for short,"first Appellate Court") dismissing appellants' appeal which was brought by them to challenge judgment/decreed dated 25.10.2011 passed by learned Civil Judge (Junior Division), Ludhiana(for short,"trial Court") is under challenge in this Regular Second Appeal.

Appellants, along with few others had approached learned Civil Judge (Junior Division), Ludhiana for a decree of permanent injunction restraining the defendants from interfering/ obstructing the offerings of Namaz in the Masjid situated within Mugal Sarai, G.T. Road, Doraha, District Ludhiana on the allegations that Masjid was used by Muslim folk for offering of Namaz since

partition of the country and the defendants had no right to obstruct the offering of Namaz. Suit was contested by the defendants by filing written statement wherein all the allegations of the plaint were denied and the suit was said to be without jurisdiction. Issues were framed and the matter was posted for evidence of the plaintiffs/appellants. However, in spite of grant of numerous opportunities, the plaintiffs/appellants could not bring any evidence in support of their claim and, as such the suit was dismissed by the learned trial Court; vide judgment/decree dated 25.10.2011 observing that the plaintiffs have failed to lead any evidence. These findings/observations have has been affirmed by the learned Appellate Court vide judgment/decree dated 31.10.2012.

I have heard learned counsel for the appellants.

Learned counsel for the appellants has not been able to controvert the findings recorded by the courts below that in spite of grant of six opportunities, the plaintiffs/appellants could not bring any evidence in support of their claim. Even the appellants themselves did not appear to support the averments contained in the plaint.

In this view of the situation, there was no alternative available with the courts below than to dismiss the plaint and appeal preferred by the appellants. I also do not find any reason to interfere with the concurrent findings of fact recorded by the courts below in view of non-appearance of appellants as witnesses in support of their own case and their inability to bring evidence to support their case coupled with the fact that the appeal is not shown to involve any

question much less a substantial question of law.

Dismissed.

No costs

January 30,2015
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(MAHAVIR S.CHAUHAN)
JUDGE