

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

RSA No.4887 of 2013 (O&M)

Date of decision : 04.09.2015

Jai Singh

...Appellant

Versus

Mewa Singh and ors.

...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: Mr. Vikram Singh, Advocate for the appellant.

Mr. Sandeep Singh, Advocate for respondent Nos.1 to 5.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff has assailed the impugned concurrent findings and facts of law, whereby suit for simpliciter declaration has been dismissed by both the Courts below.

Mr. Vikram Singh, learned counsel appearing on behalf of the appellant submits that in essence the appellant had sought declaration to the effect that plaintiff No.1 and proforma defendant Nos.6 to 7 are owner in possession of 6/7th share of land measuring 33 kanals 15 marlas, comprised in Khewat Number 366/910, khatuni Number 571 and Khasra Numbers 168//1 min (5-16), 10/1 (3-0), 193//16/2 (2-0), 194//11/2/1 (6-12), 20/2 (7-

7) and 21 Min (4-11), situated at Village Bandaheri, Tehsil and District Hisar fully detailed in jamabandi for the year 2002-2003 and the plaintiff No.2-Jai Singh is owner in possession of land measuring 46 kanals comprised in khewat number 361, khatuni number 566 and khasra numbers 193//17 (8-0), 24(4-0), 200//9/1 (6-0), 9/2 (2-0), 201//3/2 (6-0), (8-0), 7/2 (2-0), 8/1 (6-0), fully detailed in registered sale deed number 129 dated 19.04.2005 and mutation number 3242 sanctioned on 15.09.2005 and that until recently a sanctioned passage of 3 karams wide was touching khasra number 194//11/2/1 of the plaintiff no.1 and performa defendants No.6 to 7 from eastern side and that there was also a sanctioned passage of 3 karams wide on the southern side of khasra number 194//11/2 and 193//15 in the land of the plaintiff number 2 and that the defendants No.1 to 5 have illegally demolished the above said passages leading to the fields of the plaintiffs on 22.02.2006 and that the defendants have illegally and forcibly raised the construction of a house on the eastern/southern portion of khasra number 194//11/2 leading to blockage of the above-said passages.

He further submits that both the Courts below have committed illegality by not referring to the oral and documentary evidence in dismissing the suit and thus substantial question of law arises for determination by this Court.

Mr. Sandeep Singh, learned counsel appearing on behalf of respondent Nos.1 to 5 submits that there is no illegality in the order, much less, no substantial question of law arises. Simpliciter suit for declaration as framed and noticed by this Court, is not maintainable. The appellant-plaintiff did not get the property demarcated for claiming such relief.

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

The relief as noticed above, in my view could not have been entertained by the Courts below as in essence, the appellant-plaintiff sought the demolition of the passage without claiming the relief of mandatory injunction. It is now settled law that simpliciter suit for declaration without seeking injunction is not maintainable. The remedy if any for the appellant-plaintiff and proforma respondent Nos.6 to 8 was to seek the demarcation of the land by moving an appropriate application before the revenue authorities.

Both the Courts below in my view have not committed illegality and perversity in dismissing the suit i.e. simpliciter suit for declaration without injunction was/is not maintainable.

The present appeal does not involve substantial questions of law for determination by this Court.

Accordingly, impugned judgment and decree of both the Courts below are hereby upheld and appeal is dismissed.

However, this order of mine shall not prevent the appellant-plaintiff to seek vindication of their rights by moving an appropriate application before revenue authorities.

04.09.2015

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**(AMIT RAWAL)
JUDGE**