

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

105

Regular Second Appeal No.5047 of 2013

Date of Decision: November 03, 2015

Ram Lal

...Appellant

Versus

Ram Saran and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Jasdev Singh Mehndiratta, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Nakodar, dated 21.07.2009, by which the suit filed by appellant-plaintiff No.2 for permanent injunction restraining the respondents-defendants from interfering in peaceful use, occupation and enjoyment of the appellant-plaintiff No.2 and other proprietors of the village, who are joint owners and in occupation and from restraining the respondents-defendants from obstructing the appellant- plaintiff No.2 and other proprietors from cutting down the trees standing over the land measuring 26 kanals 4 marlas, situated in village Ladhran, Tehsil Nakodar, District Jalandhar, stands dismissed, against which the appeal preferred by him has been dismissed by the Additional District Judge, Jalandhar, on 17.07.2013.

2. It is the contention of learned counsel for the appellant-plaintiff No.2 that 48 marlas out of total land measuring 28 kanals and 12 marlas has been kept as a *gair mumkin masan*. 28 kanals and 12 marlas is also stated to be in possession of *makbuza ahle adharmian*. It has been admitted that there are 10-12 *smadhs* in the property in dispute and the said land is not

being used for cultivation. 2-2½ kanals of land is being used as *Shamshan Ghat*. These assertions are all depicted in the revenue record and have been found to be correct. The primary assertion on the part of the appellant-plaintiff No.2 is that the trees should not be cut by the respondents-defendants. The evidence which has come on record indicates that in fact, the plaintiffs have themselves planted some trees, which after they had matured, have been cut by them and sold. This clearly depicts that the injunction, which has been prayed for, is based on unjustified claim.

3. The findings recorded by the Courts below, thus, cannot be faulted with.

4. Both the Courts below have returned concurrent findings in detail after properly appreciating the pleadings and the evidence produced by the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

5. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

November 03, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE