

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

Regular Second Appeal No.142 of 2015

Date of decision: 18.08.2015

Mamta

... Appellant

versus

Suba Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: None.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (*Oral*)

1. There is no representation for the appellant when the matter is called. Even at the previous hearing, there was no representation. It shall always be the duty of the court to examine if substantial question of law arises in the case for admission and I have, therefore, proceeded to examine the case from the court file and dispose of the case as under.

2. The suit was filed for a relief of permanent injunction against the defendant from encroaching upon a plot of land alleged to have been held in possession of the plaintiff. There had been a complaint with the police about the claim to the property by the

plaintiff and the defendant previously and since the disputes had not been resolved, the plaintiff was seeking for relief in a civil court. The defendant had contended that the plaintiff was neither the owner nor in possession and she had already a house immediately in the vicinity of the suit property and the suit property was actually a property in which the defendant was having a *kacha* shed for residence. When he had brought it down for construction of a house, the plaintiff had filed a suit out of avarice and ill-will against the defendant. The trial Court found that as the property was a vacant land and the plaintiff was bound to prove his right to the property to establish his possession but there was no documentary evidence to support either title or possession. The appellate Court also affirmed the decision and dismissed the appeal filed by the plaintiffs against the decree of the trial Court.

3. The two courts below have properly considered the relevance of the need to establish possession for a vacant land through documentary proof of title or ownership and if there was no other aspect of possession, which will be inferred by its physical features, the plaintiff's action for injunction could not succeed. There is no error for interference in second appeal. Second appeal is dismissed.

(K.KANNAN)
JUDGE

18.08.2015
sanjeev