

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 166 of 2014 (O&M)

Date of decision: 22.09.2015

Dariya Singh

...APPELLANT

VS.

Inder Singh

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Amit Kumar Jain, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Present is an appeal preferred by the appellant-plaintiff, who had filed a suit for permanent injunction restraining the respondent-defendant from interfering in the peaceful possession over the Gair Mumkin plot comprising Khasra No. 384 measuring 1 Kanal 10 Marlas of Khewat No. 299, Khatoni No. 374 situated at Village Brah Khurd, Tehsil and District Jind, which has been dismissed by the Civil Judge (Senior Division), Jind on 02.11.2011, the appeal against which has also been dismissed by the Additional District Judge, Jind on 29.07.2013. These judgments and decree stand challenged in the present appeal.

It is the contention of the learned counsel for the appellant that the earlier suit, which has been preferred by his brother, cannot be made the basis for not entertaining the present suit of the appellant-plaintiff. His further contention is that the findings recorded therein are not binding upon

him and the Courts have erred in deciding the suit preferred by the appellant-plaintiff.

This contention of the learned counsel for the appellant cannot be accepted in the light of the fact that Civil Suit No. 514 of 2004 titled as Balbir Singh vs. Inder Singh was preferred by the real brother of the appellant-plaintiff, who had also sought the same relief as in the present suit and was co-sharer in the suit property was decided against him and the said judgment and decree passed by the then Additional Civil Judge (Senior Division) Jind dated 08.06.2007 Ex. D1 had attained finality as no appeal against the said judgment and decree has been preferred. That apart, as per the demarcation report, which was submitted by the Local Commissioner appointed by the Court, indicated that it was the appellant-plaintiff who had encroached upon the adjacent plot where a temple has been constructed and not the respondent-defendant. The findings recorded by the Courts below cannot be said to be not in consonance with the pleadings and evidence, which had been led by the parties.

There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be just and reasonable, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

September 22, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE