

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 2240 of 2014 (O&M)
Date of decision: 13.7.2015

Raj Kala

.. Appellant

v.

Chhotu Ram and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vinod S. Bhardwaj, Advocate for the appellant.

...

Rajesh Bindal J.

One of the defendants is before this court against the judgment and decree of the learned lower appellate court, whereby that of the trial court was reversed and the suit filed by respondent No. 1- plaintiff for declaration and mandatory injunction was decreed.

The suit was filed by respondent No. 1- plaintiff for declaration to the effect that the area shown with letters “EFGH” in the site plan is a *gali share-aam*, being used by inhabitants of the area. Relief of mandatory injunction was also sought directing the defendants to remove the wall constructed at points “XY”. The trial court dismissed the suit. However, the learned lower appellate court reversed the judgment and decree of the trial court and decreed the suit.

The learned lower appellate court, on appreciation of the evidence produced on record, opined that portion “EFGH” was clearly a public street. The site plan (Ex. P6) produced in court was perused, which clearly establishes the fact that on North and South of the portion “EFGH”, there are public streets. The portion in dispute is connecting two streets with houses on both sides. The aforesaid street is sought to be closed from one

side, where the wall was constructed which was identified as “XY”. Once the site plan clearly establishes the fact that the area in dispute is a public street and was being used by the inhabitants of the area, there is no illegality in the findings recorded by the learned lower appellate court to that effect. In the site plan (Ex. P2), submitted by Ishwar Dutt Gaur and passed by Municipal Council, Bhiwani, the area has been shown to be a public street. It had further come in evidence that the defendants had earlier encroached upon the street, which was removed by the Magistrate with police help. With this material on record, in my opinion, no illegality has been committed by the learned lower appellate court in decreeing the suit filed by respondent No. 1-plaintiff.

No substantial question of law arises in the present appeal. The same is, accordingly, dismissed. Consequently, the accompanying application is also dismissed.

(Rajesh Bindal)
Judge

13.7.2015
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