

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.6031 of 2015 (O&M)
Date of decision: 09.12.2015

Ranbir ... Appellant
Vs.

Khushi Ram and others ... 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. Balraj Gujjar, Advocate, for
Mr. Mohit Rathee, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.15084-CII-2015

For the reasons stated in the application, duly supported by an affidavit, delay of 39 days in filing the appeal, is condoned.

C.M. stands disposed of.

RSA No.6031 of 2015 (O&M)

The appellant-plaintiff is in Regular Second Appeal against the concurrent findings of facts and law, whereby, the suit for permanent injunction seeking restraint order against the respondent-defendants from encroaching *Rasta Sare Aam* on 10 feet area in the eastern side of khasra No.3664, has been dismissed.

Mr. Balraj Gujjar, learned counsel appearing on behalf of

the appellant-plaintiff submits that the suit was filed on 24.12.2008 and demarcation of the property was conducted on 08.12.2008. Kanungo prepared his report on 19.12.2008, however, both the Courts below non-suited the plaintiff on the ground that the aforementioned demarcation report has not been proved, in essence, Kanungo has not appeared in the witness box.

I have heard learned counsel for the appellant-plaintiff and appraised the impugned judgments and decrees of the Courts below.

The demarcation report is the only piece of evidence, which could be looked into. Moreover, it is the Gram Panchayat, which is required to take action, but they could not take any action which compelled the plaintiff to invoke the jurisdiction of the Court. The demarcation report has not been proved in accordance with law as the Kanungo has not stepped into witness box as defendant has been deprived of his right to cross examine him.

It is settled law that the plaintiff has to stand on his own legs and should not rely upon the weak defences of the defendants.

Since the suit essentially was for permanent injunction, the primary evidence was the demarcation report which has not been proved, therefore, rightly so, the injunction had been declined by both the Courts below.

Keeping in view the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts

below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 09, 2015
savita