

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

**RSA No.6140 of 2015 (O&M)
Date of decision: 15.12.2015**

Bipanjit Singh and another

... Appellants

Vs.

Punjab Urban Planning and Development Authority
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. Ajay Pal Singh, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.15359-C of 2015

For the reasons stated in the application, duly supported by an affidavit, delay of 18 days in filing the appeal, is condoned.

C.M. stands disposed of.

RSA No.6140 of 2015 (O&M)

The appellant-plaintiffs are in Regular Second Appeal against the concurrent findings of facts and law, whereby, the suit for mandatory injunction seeking restraint order against defendants No.2 to 4 not to permit allottee from raising construction over the plot bearing No.2072-C and 2057-C, MIG, Sector 70 Mohali, Tehsil

Mohali and District Ropar, has been dismissed by both the Courts below.

Mr. Ajay Pal Singh, learned counsel appearing on behalf of the appellant-plaintiffs submits that suit was filed on 06.09.2004 claiming aforementioned relief as the appellants were allotted corner plots and defendants No.1 to 3 could not have allotted vacant adjacent area to defendant No.4 for constructing the residential houses as it has taken valuable right of the appellants, inasmuch as the appellants had paid extra price for allotment of corner plot and defendant No.4 has raised the construction by making boundary wall which is not permissible in law. No compensation/extra payment of boundary wall has been made, thus, there is illegality and perversity in the findings rendered by the Courts below.

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

During the pendency of the suit claiming permanent injunction, respondent-defendants has raised construction, the appellant-plaintiffs did not consider it appropriate to seek amendment of the plaint by seeking mandatory injunction, much less, no declaration has been sought. In absence of the aforementioned statutory relief, suit for permanent injunction, in my view, has been rendered infructuous as the respondent-defendant No.4 had already raised construction. In case, the appellant-plaintiffs are aggrieved of the payment of extra amount on account of having allotted corner

plots, they are at liberty to recover the same, if permissible in law.

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 determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 15, 2015
savita