

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

**Regular Second Appeal No.3516 of 2014 (O&M)
Date of decision: 07.08.2015**

Surender Singh and another

.....Appellants

Versus

Smt. Kamaljit Kaur

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Suvir Sidhu, Advocate,
for the appellants.

Mr. Harsh Garg, Advocate,
for Mr. Rakesh Gupta, Advocate,
for the respondent.

Ritu Bahri, J.

Defendants-appellants have come up in regular second appeal against the judgment of reversal dated 04.04.2014 passed by the Additional District Judge, Kaithal, whereby appeal filed by the plaintiff-respondent against the judgment and decree dated 02.12.2011 passed by the Addl. Civil Judge (Senior Division), Guhla, has been accepted and her suit has been decreed as prayed for.

Smt. Kamaljeet Kaur-plaintiff (respondent herein) filed a suit for permanent injunction restraining the defendants-appellants from discharging the household and submersible pump water near the wall in dispute.

Upon notice, the defendants-appellants filed written statement and controverted the allegations levelled by the plaintiff. It was stated that the plaintiff had raised unauthorized construction by raising wall over the plot, which was owned by defendants.

Trial Court, after going through the evidence led by the parties,

dismissed the suit of plaintiff-respondent and decreed the counter claim of defendant no.1. The plaintiff was restrained from raising further construction over the suit property shown in red colour as per site plan, Ex.DW1/A. However, on appeal, the lower appellate Court reversed the findings returned by the trial Court and decreed the suit of the plaintiff-respondent in toto. The defendants-appellants were restrained from discharging the dirty water near the common wall between the two neighbours, so that it should not cause seepage in the wall causing loss to the property. Hence, this appeal.

Both the parties are in close relations and this Court vide order dated 28.08.2014 made an attempt to get the matter amicably settled by referring the same to Mediation and Conciliation Centre of this Court. As per report of the Mediator, the matter could not be settled.

After hearing learned counsel for the parties, it is not in dispute that there is a common wall between the houses of both the parties. After passing of the judgment by lower appellate Court on 04.04.2014, the plaintiff-respondent had plastered his side of the wall in dispute. At present, there is no apprehension that either parties can encroach by shifting their common wall easily.

After going through the impugned judgment, no illegality, much less perversity, has been found in the therein, warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

07.08.2015
ajp

(RITU BAHRI)
JUDGE