

In the High Court of Punjab and Haryana at Chandigar

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R.S.A.No.5157 of 2014 (O&M)
Date of decision: 15.10.2015

MOOL CHAND

.....Appellant

Versus

RAMESH CHAND

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.S.K.Bawa, Advocate,
for the appellant.

- 1. Whether Reporters of local papers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Raj Mohan Singh, J.

CM-12154-C-2014

Appellant is allowed to make the deficiency in the court fee.

Application stands disposed of accordingly.

CM-12153-C-2014

For the reasons mentioned in the application, delay of 126 days in re-filing the appeal is condoned.

Application stands disposed of accordingly.

RSA No. 5157 of 2014

1. Plaintiff is in second appeal in a suit for permanent injunction.

2. Plaintiff claimed that he is owner in possession of 3/27 share i.e. 90 square yards in Rect. No. 40, kill No.9/1 (1-7) marked by letters 'ABCD' in red colour in site plan Ex. P-1. The said land was purchased by the plaintiff vide sale deed dated 26.12.1985 from Subhash Chand. Plaintiff further claimed that the defendant is totally stranger and wants to encroach upon the land in question.

3. The stand of the defendant, on the other hand, is that the plaintiff himself wants to encroach upon the property, which is in possession of Sahid Ahmad. Defendant has no concern with the land in question.

4. The statement of the plaintiff himself, while appearing as PW-1 is necessary to be scrutinized in the present context. While appearing as PW-1, plaintiff has himself admitted that the red coloured portion in site plan Ex.P-1 is not coming as 90 square yards and he has been running *bhattiyan* in this property, whereas, the report of the Local Commissioner shows this property in blue colour. There is candid admission on behalf of PW-1 that the property in question is in possession of Sahid Ahmad. The Courts below have made reference to site plans Ex.P-1 and Ex. D-1. If the plot in question is in possession of Sahid Ahmad, then how the plaintiff can claim possession thereof. The portion marked by letters 'ABCD' as shown in red colour in site plan

Ex.P-1 is admittedly not belonging to the plaintiff as per his admission. Rather this property is in possession of Sahid Ahmad. The anomaly vis-a-vis property shown in red colour and yellow colour is concerned, the Courts below have observed that if the portion shown in yellow colour in Ex.D-1 belongs to the plaintiff then the portion shown at point 'A' is also situated in western side of Ex.P-1. Accordingly in both the site plans Ex.P-1 and Ex.D-1, the portion shown at point 'A' is situated towards western side.

5. The portion 'ABCD' shown in red colour is admittedly not belonging to the plaintiff, rather the same is admitted to be in possession of Sahid Ahmad, therefore, the claim of the plaintiff-appellant in a suit for permanent injunction, in considered opinion of this Court, is not maintainable. Hence, no interference is called for in the judgments and decrees passed by the Courts below.

6. No law point worth consideration is involved in this appeal and the same is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

October 15, 2015
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