

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

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Regular Second Appeal No.5210 of 2014 (O&M)
Date of Decision: September 15, 2015

Azad Singh

...Appellant

Versus

Jai Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rakesh Nehra, Advocate
with Mr. Sunil Nehra, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.12303-C of 2014

Prayer in this application is for condonation of delay of 31 days
in filing the appeal.

For the reasons mentioned in the application, which is duly
supported by an affidavit, the present application is allowed.

Delay of 31 days in filing the appeal stands condoned.

RSA No.5210 of 2014

Challenge in this appeal is to the judgment and decree passed
by the Additional Civil Judge (Senior Division), Meham, dated 24.07.2013
by which the suit for permanent injunction preferred by the appellant-
plaintiff has been dismissed in the light of the statement made by him as
also his brother Surender PW-2, wherein it has been stated by them that
there is neither any obstruction in the drainage of water from his house
towards the vacant area nor any interference is caused by the respondent-
defendant in his use of the septic tank which belongs to both the brothers.

The appeal preferred by the appellant-plaintiff before the District Judge, Rohtak, has also been dismissed on 13.05.2014 which has led to the filing of the present appeal.

2. It is the contention of learned counsel for the appellant-plaintiff that the suit which was preferred by the appellant-plaintiff was with regard to not only the disconnection of his toilet to the septic tank and causing hindrance but for construction of a wall which was an obstruction and the free use of the said vacant area. He, therefore, contends that the injunction which was prayed for, should have been granted by the Courts below as the said hindrance i.e. the wall still subsists.

3. This contention of the counsel for the appellant-plaintiff cannot be accepted in the light of the fact that the suit primarily was with regard to the hindrance in the usage of the septic tank as the connection to the said septic tank has been blocked by the respondent-defendant. Perusal of the judgments passed by the Courts below clearly indicate that the appellant-plaintiff in his cross-examination has stated that the septic tank which was constructed by both of them was initially obstructed but thereafter there is no obstruction in the drainage of water from his house towards the disputed area. The conclusions have rightly been drawn by the Courts below that no obstruction in the drainage of water from his house towards the vacant area existed at that time and, therefore, the findings recorded by the Courts below do not call for any interference.

4. Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

5. No substantial question of law is involved in the present

appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

September 15, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**