

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

RSA No.6079 of 2014 (O&M)

Date of decision : 19.11.2015

Sital Singh

...Appellant

Versus

Prem Kaur and ors.

...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. G.S. Nagra, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

The appellant-defendant is in Regular Second Appeal against the concurrent finding of fact, whereby he has been restrained from encroaching upon street shown as ABCD in the site plan as Ex.P1 and as well as from interfering in the ownership and possession of the house of the plaintiffs shown as B, B1, B2, B3 shown in the site plan touching the street, ABCD on eastern side situated in Village Landran, Tehsil and District SAS Nagar, Mohali.

Mr. G.S. Nagra, learned counsel appearing on behalf of appellant submits, that both the Courts below have committed illegality and perversity in not appreciating the site plan produced by the appellant-defendant which shows that there was no street as sought to be projected in

the suit, whereby appellant-defendant has been enjoined. In fact there is another street which was candidly admitted by the respondent-plaintiffs. Thus, substantial question of law arises for determination.

Even prior to the filing of the present suit, Mehma Singh father of the plaintiff had also filed the suit which was dismissed upto this Court and, therefore, the second suit by his son was not maintainable as it was hit by Order 2 Rule 2 CPC.

I have heard learned counsel for the appellant and appraised the paper book.

There is no substance that suit for permanent injunction as per provision of Order 2 Rule 2 is barred. A person can always have different cause of action in case his possession and rights are apprehended to be interfered. No effort has been made by appellant-defendant to get the property demarcated in disproving the site plan, produced by plaintiff, in essence there is no evidence contrary to Ex.P1 has been lead to show street is in existence or not. In the absence of the direct and cogent evidence, the Court believed the site plan Ex.P1.

In view of aforementioned facts, I do not intend to differ with the findings recorded by the Courts below, much less, no substantial question of law arises for determination.

Appeal is dismissed.

19.11.2015

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**(AMIT RAWAL)
JUDGE**