

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

RSA No.2366 of 2010 (O&M)

Date of decision : 22.03.2016

Tirath Ram deceased through LRs

...Appellant

Versus

Suraj Lal @ Surta Ram 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. K.S. Dhillon, Advocate for the appellant.

Mr. Zorawar Singh, Advocate for respondent Nos.1 to 6.

AMIT RAWAL, J. (Oral)

The appellants-defendant are aggrieved of the concurrent findings of fact, whereby defendants have been enjoined from raising any type of construction on the disputed passage and from changing the nature of the passage in dispute and occupying any portion of the disputed passage marked as ABCD shown in red colour in the site plan, mandatorily injunction, to remove marble flooring constructed in the portion of the disputed passage marked as ABEF in the site plan.

Mr. K.S. Dhillon, learned counsel appearing on behalf of appellant submits that respondent-plaintiff has not stepped into the witness-

box to prove the case. In the absence of evidence, plaintiff failed to discharge the onus, thus, miserably failed to prove the case, thus, there is illegality and perversity in the judgment and decree of both the Courts below. He further submits that appellants were not given opportunity to lead evidence. Compromise has also not been proved on record, which was heavily relied upon. The Resolution of the Gram Panchayat has no weightage and urges this court to formulate substantial question of law as culled in the grounds of appeal.

Mr. Zorawar Singh, learned counsel appearing on behalf of respondent submits that concurrent findings of fact does not call for any interference until and unless substantial question of law is made out. Moreover, both the Courts below have rendered a findings based upon oral and documentary evidence. Defendant has not stepped into the witness-box. Even report of DDPO Ex.P7 was proved and Report Ex.P5 was also proved through Gram Sewak (PW8). DDPO came with the plea that passage belongs to Gram Panchayat and is 15 ½ feet in length and 7 ½ feet in width which is not part of the Courtyard of Tirath Ram and thus urges that there is no illegality and perversity in the judgment under challenge.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit in the appeal, as Rajinder Kumar DW2 witness of the defendant admitted that he was not in possession of the entire ownership of land and on eastern and western side of the house of the plaintiff there is passage on both sides whereas on the contrary, it is proved on record that passage belong to Gram Panchayat. Ld. Counsel submits that an opportunity be given to lead evidence. I am of the

view that no reasons have come forth for non-appearance. Tirath Ram defendant has not stepped into the witness box.

I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for determination.

In view of what has been observed above, no ground for interference is made out.

Dismissed.

22.03.2016

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**(AMIT RAWAL)
JUDGE**