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

**RSA-3418-2010 (O&M)
Date of decision : 05.05.2016**

Subhash Chander and others

... Appellants

Versus

Prem Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikas Singh, Advocate
for the appellants.

Mr. Jatinder Singla, Advocate
for the respondent.

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?

AMIT RAWAL, J. (ORAL)

The appellants-defendants are aggrieved of the judgment and decree rendered by both the Courts below, particularly of the Additional District Judge, Patiala, wherein the judgment and decree of the trial Court decreeing the suit of the respondent-plaintiff and declining the counter-claim has been affirmed.

Mr. Vikas Singh, learned counsel appearing on behalf of the appellants-defendants submits that the Appellate Court had acted as if there was no counter-claim and decided the appeal by treating the appellant as defendant not as plaintiff in his counter-claim, thus, urges this Court to formulate the following substantial questions of law:-

1. Whether once, the respondent-plaintiff submitted before the

Courts below that they did not have any concern with regard to the counter-claim set up as per the Ex.D-1, the counter claim ought to have been decreed or not?.

2. Whether the judgment and decree of the lower Appellate Court suffers from illegality and perversity, much less, abdicated in not discussing with the counter-claim?

Mr. Jatinder Singla, learned counsel appearing on behalf of the respondent-plaintiff submits that in case, the appellants-defendants are not aggrieved of the decreetal of the suit of the respondent-plaintiff, they have no objection, in case, counter-claim of the appellant-defendant be decreed. He further submits that the counter-claim as set up before the trial Court is not as per Ex.D-1 which pertains to khasra number 610 (5-17) and khasra No.611 (1-3).

In view of the aforesaid facts and circumstances of the case, I am of the view that the following counter claim of the respondent-plaintiff is decreed:-

“Suit for permanent injunction restraining the plaintiff Prem Kumar, his friends, attorney relatives, agents, servants from interfering or causing to interfere in any manner whatsoever or through demarcation from revenue agency or with the help of the false entries in the revenue records over the land measuring 7 bighas i.e. Kharsa No.610 (5-17) and khasra No.611 (1-3), bound as :-

*East: Road 46 karams West:32 Karams along with
Ayurvedic college North : 81.5 karams
South: 66 karams in the revenue estate of Patiala on Mohindra
college Road, Patiala as per jamabadni for the year 1991-92.”*

However, the judgment and decree of the trial Court rendered in

Civil Suit bearing No.28-T of 15.12.1997 titled as 'Prem Kumar V/s Rameshwar Dass Bhandari and others' with regard to following finding is hereby upheld.

“Amended suit for permanent injunction restraining the defendants from interfering or cause to interfere in any manner whatsoever, in the peaceful possession of the plaintiff over the land bearing khasra No.3208/610/1(0-6) biswas comprised of Khewat/Khata No.3467/5275 situated at Patiala according to the jamabandi for the year 1991-92 or from transferring the suit land or alienating in any manner to any body illegally and forcibly.”

Accordingly, the appeal as per statement of respondent's counsel stands disposed of.

05.05.2016
yogesh

(AMIT RAWAL)
JUDGE