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

**RSA-4518-2010 (O&M)
Date of decision : 29.03.2016**

Hans Raj

...Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amit Jain, Advocate
for the appellant.

Mr. D.K. Mittal, DAG, Haryana.

Mr. Ramesh Hooda, Advocate
for respondent No.2.

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 appellant-plaintiff is aggrieved of the concurrent findings whereby the suit for permanent injunction, viz-a-viz the house No.939/30 situated on plot No.434 measuring 500 square years, on the basis of the sale deed dated 11.12.1991 has been declined.

Mr. Amit Jain, learned counsel appearing on behalf of the appellant-plaintiff submits that in order to prove the case, the appellant-

plaintiff placed on record the sale deed aforementioned and the demarcation report dated 26.03.2001. As per report, there was no encroachment on the land, whereas, on the contrary, the defendant had placed on record demarcation reports Ex.D-6 and D-8 dated 02.02.1994 and 19.06.1999. Both have been tendered through their witness without examining author of the report. The proceedings initiated under the Public Premises Act, against the various other plots, but not of plot No.434, the Court below ought to have granted injunction and urges this Court to formulate the following substantial question of law:-

1. Whether in the peculiar facts and circumstances of the case, the appellant-plaintiff is entitled to injunction as the appellant-plaintiff has been found in a long and settled possession of plot bearing No.434.

Mr. Ramesh Hooda, learned counsel appearing on behalf of respondent No.2 submits that the property was purchased by the defendant on the basis of the exchange on 31.03.1978, whereas the sale deed was executed on 23.03.1994. The proceedings initiated under Public Premises Act pertains to plots bearing Nos.427, 428, 429, 433 and 435 and the possession of all the plots have been taken. The defendants have no concern with regard to the plot No.434 as it is not in existence and prays that no substantial question of law arises for determination.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a substance in the plea of Mr. Amit Jain, for the reason that once the defendants have not disputed existence of the plot bearing No.434, but the fact remains that the plaintiff has acquired the right and title by virtue of the registered document dated 11.12.1991 and house

has been allotted municipal number as 939/30. Once, the defendants have no concern with regard to the plot bearing No.434 and have taken the possession of other plots, I am of the view that no prejudice would be caused to either of the parties, in case, the status quo with regard to the suit land is ordered. The demarcation reports tendered have not been proved in accordance with law and the same cannot be looked into. These facts have not been noticed by both the Courts below while declining the relief.

Keeping in view the aforementioned facts and circumstances, the judgment and decree rendered by both the Courts below are hereby set aside and the suit is allowed in part. The substantial question of law as noticed above are answered in favour of the appellant-plaintiff and against the respondents-defendants.

With the aforesaid observations, the appeal stands allowed.

29.03.2016
yogesh

(AMIT RAWAL)
JUDGE