

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

Date of decision : 21.10.2016

1.

RSA-3810-2011

Karnail Singh

... Appellant

Versus

Shamsher Singh

... Respondent

2.

RSA-3818-2011

Karnail Singh

... Appellant

Versus

Shamsher Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.S. Salar, Advocate
for the appellant in both the appeals.

Mr. Arihant Jain, Advocate
for the respondent in both the appeals.

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two appeals bearing **RSA No.3810 of 2011** titled as **“Karnail Singh V/s Shamsher Singh”**, and **RSA No.3818 of 2011** titled as **“Karnail Singh V/s Shamsher Singh”**.

The appellant-defendant is aggrieved of the judgment and decree of the lower Appellate Court, whereby the counter-claim in a suit seeking injunction qua forcible interference at the behest of the respondent-plaintiff, has been dismissed by the lower Appellate Court.

The counter-claim set up by the appellant-defendant was that

the respondent-plaintiff had encroached the area mentioned therein and in this regard, even sought the indulgence of the Courts below for appointment of the Local Commissioner, whose report was not relied upon. The lower Appellate Court dismissed the appeal on the maintainability/*locus standi* of the appellant-defendant as in the year 1990, the appellant-counter-claimant had suffered a decree regarding the ownership of the land in favour of his son.

In view of the above, I am of the view that the *locus standi* would be of the actual owner and concededly the owner is none-else, but the son of the appellant-defendant, therefore, the appeal bearing **RSA No.3810 of 2011** is disposed of and the judgment and decree of the lower Appellate Court declining the counter-claim is upheld.

Liberty is granted to the actual owner to seek the vindication of the grievance in accordance with law.

As regards the other appeal bearing **RSA No.3818 of 2011** seeking injunction by the respondent-plaintiff against the appellant-defendant, the appellant, namely, Karnail Singh, has died and accordingly, the appeal has been rendered infructuous and thus, appeal i.e. **RSA No.3818 of 2011** is disposed of as infructuous.

21.10.2016
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**