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

**RSA-1582-2012 (O&M)
Date of decision : 29.04.2016**

Banwari and others

... Appellants

Versus

Mange Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Babbar Bhan, Advocate
for the appellants.

Mr. Kulvir Nagpal, Advocate
for respondent Nos.2 to 12.

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-plaintiffs are aggrieved of the judgment and decree rendered by the lower Appellate Court, whereby the judgment and decree of the trial Court decreeing the suit, granting the injunction against the respondent(s)-defendant(s) not to interfere and forcibly dispossess, has been reversed by the lower Appellate Court.

Mr. Babbar Bhan, learned counsel appearing on behalf of the appellants-plaintiffs submits that the trial Court on the basis of pre-ponderance of the evidence, i.e. on examination of Chandan Singh, Mason raised the boundary wall in the presence of the villagers, decreed the suit holding that the

appellant(s)-plaintiff(s) are in possession of the suit property described in the site plan ABCD, however, the lower Appellate Court reversed the findings holding that the all the witnesses were interested witnesses, much less, plaintiff himself. The land is situated in Lal Dora and does not have any khasra number. He further submits that in the consolidation proceedings of the village Dharana, he was allotted a plot bearing No.303. The Local Commissioner appointed at the instance of the respondent(s)-defendant(s), visited the plot bearing No.303 and brought the record, but there is a gross misreading of oral and documentary evidence and thus, urges this Court for setting aside the impugned judgment and decree of the lower Appellate Court reversing the findings of the trial Court. This fact, itself, raises an occasion for this Court for formulation of the substantial questions of law as drawn in the memorandum of appeal.

Mr. Kulvir Narwal, learned counsel appearing on behalf of the respondent(s)-defendant(s) submits that the suit *ex facie* was not maintainable as per the provisions of Order 7 Rule 11 CPC as the dimension of the property are conspicuously wanting. Neither any allotment letter has been placed on record, nor the Local Commissioner found the property in possession for which injunction has been sought against the respondent(s)-defendant(s), thus, urges this Court for affirming the findings rendered by the lower Appellate Court, much less, no substantial question of law arises for determination.

Mr. Babbar Bhan, Advocate, in rebuttal, submits that report of the Local Commissioner only shows about the slight encroachment.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the appellant(s)-plaintiff(s) has failed to prove the possession of the suit property, for, no dimension with regard to the plot

bearing No.303, so that, the Local Commissioner or any body else could measure the plot, for the purpose of ascertaining the alleged dispossession. The appellant(s)-plaintiff(s) cannot encroach upon the vacant land by placing/parking the agricultural implements i.e. Tractor etc., much less, tethering their cattle. All the witnesses have deposed in line of the plaintiff's statement. In my view, the plaintiff has not been able to lay foundation in the suit for seeking injunction.

Keeping in view the aforementioned facts and circumstances of the case, I do not intend to differ with the findings rendered by the lower Appellate Court which are based upon the appreciation upon the oral and documentary evidence, much less, no substantial question of law arises for determination.

With the aforesaid observations, the appeal stands dismissed.

29.04.2016
yogesh

(AMIT RAWAL)
JUDGE