

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

RSA No.1985 of 2013
Date of decision : 15.09.2016

Jaswant Singh and others

...Appellants

Versus

Pawandeep Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Surinder Garg, Advocate for the appellants.

Mr. Satish Jaswal, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

The appellants-defendant Nos.1 to 5 are aggrieved of the judgment and decree rendered by the lower Appellate Court, whereby suit of the respondent-plaintiff has been decreed to the effect that the defendants have been restrained from closing the two doors marked as B and C shown in the site plan Ex.P1 illegally and forcibly, in any manner whatsoever.

Mr. Surinder Garg, learned counsel appearing on behalf of the appellants-defendants No.1 to 5 submits that two doors marked as B and C in site plan are not part of the tenant premises as the respondent had been indulging into the theft of doors of the appellant who is also tenant of original landlord-Brahm Dutt Sharma. Even Brahm Dutt Sharma had supported the case of the appellant. Keeping in view the aforementioned

facts, the trial Court dismissed the suit, but the lower Appellate Court by misconstruing and misdirecting the evidence gave findings that purpose of affixing two doors with ventilators is to make optimum use of the passage and not to permanently close the same. The finding of the lower Appellate Court thus is erroneous, perverse and liable to be set aside. Brahm Dutt Sharma DW4 had already appeared in witness-box and supported the case of the appellants-defendants. All these factors have not been taken into consideration by the lower appellate court and urges this Court for formulation of substantial questions of law as culled out in memorandum of appeal.

Mr. Satish Jaswal, learned counsel appearing on behalf of respondent No.1 submits that lower Appellate Court being last Court of facts and law examined the evidence and found that possession of the appellants qua granting of the injunction tantamounts using for personal use. In the area of the tenant premises, defendants cannot interfere and use the same and thus urges this Court for affirmation of the findings under challenge.

I have heard learned counsel for the parties and appraised the paper book and record of the trial Court and of the opinion that findings rendered by the lower Appellate Court is perfect, legal and justified. As per the site plan Ex.P1, there were two points marked as B and C, one is to the tenant premises and another to the Mandir. Doors are on the wall of the tenant premises, therefore, the defendants had no right qua forcibly causing interference or pressurize the plaintiff, to encroach the same. In fact it was an attempt to usurp the entire passage of gali for own use. Moreover, the

injunction has been sought against the co-tenants by impleading the landlord as defendant being necessary party. Brahm Dutt Sharma DW4 has not supported the case of the appellants-defendants.

I do not intend to differ with the findings rendered by the lower Appellate Court i.e. purpose of affixing two doors with ventilators is to make optimum use of the passage and not to permanently close the same.

The findings of the lower Appellate Court are based upon appreciation of the oral and documentary evidence, much less, no substantial questions of law arises for determination.

Accordingly, present appeal is dismissed.

15.09.2016

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No