

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

RSA No.791 of 2013 (O&M)

Date of decision : 02.12.2016

Maman

...Appellant

Versus

Gram Panchayat, Nanu Kalan

..Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. O.P. Sharma, Advocate for the appellant.

Mr. Vipul Aggarwal, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

CM No.2176-C of 2013

For the reasons stated in the application, which is duly supported by an affidavit, delay of 33 days in filing the appeal is condoned.

Application stands allowed.

Main case

The appellant-plaintiff is aggrieved of the dismissal of the suit seeking injunction against Gram Panchayat restraining them from constructing the permanent drain in his plot, has been dismissed by both the Courts below.

Mr. O.P. Sharma, learned counsel appearing on behalf of appellant-plaintiff submits that report of Local Commissioner is not in

consonance with the instructions. Appellant has been found to be owner of the property. The alleged extension of the plots was towards the common passage, measurement of which was done without putting the pucca point. The Courts below, therefore, ought not to have dismissed the suit but accordingly appointed the Second Commissioner, thus, there is gross illegality and perversity.

I have heard learned counsel for the appellant-plaintiff and appraised the paper book and of the view that as per the report, it has come on record that plaintiff had constructed his plot which is towards common passage by making a hedge of bushes where Gram Panchayat wanted to construct pucca permanent drain. Once it has been found to be so, person who seek equity, must do equity. Once he is not found to be owner of the property, therefore, relief as sought has rightly been declined.

No ground for interference is made out.

Accordingly, present appeal is dismissed.

02.12.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No