

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

RSA No.2393 of 2015 (O&M)

Date of decision : 08.08.2016

Ajaib Singh (now deceased) through LRs Gurnam Singh

...Appellant

Versus

Lakhbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. P.S. Jammu, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved of the judgment and decree rendered by both the Courts below, whereby claim in the suit seeking restraint order against defendants from constructing and drain from point A to Point B and putting the waste water/sullage in the property consisting of plot and houses of the plaintiffs, has been declined.

Mr. P.S. Jammu, learned counsel appearing on behalf of appellant-plaintiff submits that one of the ground taken in the suit was that appellant-plaintiff had earlier filed a suit with regard to the relief of drain water which was withdrawn. No liberty was sought but the fact remains that another relief qua construction of drain was sought but the suit was

dismissed on that ground. The documentary evidence placed on record would have really effect the plaintiff, in case succeeded. During the course of the arguments, on the query qua interim order as to whether granted by Court, Mr. Jammu, answered that there was no interim injunction. The defendants were successful in raising the construction.

I have heard learned counsel for the appellant and appraised the paper book.

If it was so, nothing prevented the plaintiff to seek amendment of the plaint seeking mandatory injunction. Even if the plaintiff had been able to prove the case of injunction, Court could not have granted the injunction in the absence of amendment. The plaintiff has also failed to prove on record the alleged factum of construction of the drain. On this account, the Courts below declined the relief as sought.

I am with the agreement of the findings rendered by the Courts below as are based upon appreciation of oral and documentary evidence.

No ground for interference is made out.

Dismissed.

08.08.2016

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes

Whether reportable:-

Yes/No