

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.4186 of 2016 (O&M)

Date of Decision: October 03, 2016

Surjeet Singh

...Appellant

Versus

Baldev Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Surjeet Singh Sodhi, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-plaintiff is aggrieved of the impugned judgments and decrees of the Courts below, whereby the suit for permanent injunction seeking restraint order against the defendants with regard to the property shown ABCD in the site plan, has been declined.

Mr.Surjeet Singh Sodhi, learned counsel for the appellant-plaintiff submits that the property was owned by Wassan Singh. During his life time as he had already partitioned the property amongst the siblings. Plaintiff and defendants are none else but the brothers and mother. The possession is admitted, but the Courts below have declined the relief. Once the partition is already there, the suit for injunction was rightly maintainable. Report of the Local Commissioner has also not been taken into consideration and, thus, there is illegality and perversity.

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

Mr.Sodhi, during the course of hearing of the present appeal, has heavily relied upon the site plan to prove the possession, but the fact remains that the Draftsman, who had prepared the same, had not been examined. In view of the aforementioned fact, the site plan has not been proved in accordance with law. Mere exhibition of a document cannot dispense with its proof. The appellant-plaintiff should have been more vigilant while making averments in the plaint.

For the foregoing reasons, I do not intend to differ with the findings of both the Courts below, which are based on appreciation of oral and documentary evidence, much less no substantial question of law arises for determination by this Court. No ground for interference.

Appeal stands dismissed.

October 03, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No