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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-278-2015 [O&M]

Date of Decision : February 2nd, 2016

Baljit

.... Appellant

Versus

Shambu and another

.. Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

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?

Present Mr. Naveen Sheokand, Advocate,
for the appellant.

SHEKHER DHAWAN, J.

Present Regular Second Appeal is directed against the concurrent findings of both the Courts below, whereby suit for possession of land measuring 8 sq. yards bounded as detailed in the head note of the plaint, bearing khasra No. 106, khewat and khata No. 16/16 as per jamabandi for the year 2006-2007, filed by plaintiffs [respondents herein] was decreed by the Court of first Instance vide judgment and decree dated 12.10.2012. The appeal filed by the defendant [appellants herein] was dismissed by learned District Judge, Jind vide judgment and decree dated 5.11.2014.

2. For the sake of convenience, parties are being referred to as per their status before the Court of first Instance.

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3. Learned counsel for the appellant submitted that the Courts below have not appreciated the controversy and evidence and material available on the file which resulted into erroneous findings.

3. Having considered the submissions made by learned counsel for the appellant, this Court is of the view that the plaintiffs are owners in possession of Khasra No. 106 and defendant has actually encroached upon some part of khasra No. 106, although, he is owner of khasra No. 107 only and has no concern with khasra No. 106. The Court of first instance decreed the suit on the basis of evidence available on the file. The report [Ex.PW2/A] of Local Commissioner is on the file, which was submitted by Shri Raghbir Singh, Field Kanungo [PW-2] after visiting the spot and locating *pucca* points. The said findings of fact have been affirmed by the Court of first Appeal. The present Regular Second Appeal being against the concurrent findings of fact of both the Courts below is not maintainable as no substantial question of law is involved therein under Section 100 of the Code of Civil Procedure. Such a view was taken by Hon'ble Supreme Court in case **Santosh Hazari Vs. Purushottam Tiwari (Dead) by LRs., JT 2001(2) SC 407.**

4. In view of the above, the present Regular Second Appeal stands dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

February 2nd, 2016
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