

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

**RSA No.3920 of 2015 (O&M)
Date of Decision.16.12.2016**

Mohinder Pal and another

.....Appellants

Vs

Tilak Raj Sharma

.....Respondent

Present: Mr. S.K Chaudhary, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.9602-C of 2015

For the reasons stated in the application, delay of 9 days in filing
the appeal is condoned.

Application is allowed.

C.M. No.9603-C of 2015

For the reasons stated in the application, delay of 43 days in
refiling the appeal is condoned.

Application is allowed.

RSA No.3920 of 2015

The appellants-defendants are aggrieved of the concurrent
finding of fact whereby in the suit claiming mandatory injunction, following
relief has been granted:-

*“It is ordered that suit filed by the plaintiff is decreed with costs
directing the defendants to remove the door installed at the site
marked by letters DE in red colour and restore the passage
marked by letters CDEF in red colour free from obstruction after
removal of door stated above, as mentioned in the head note of
the plaint, within the period of two months from the date of order.
The defendants are further restrained from causing any
obstruction in the passage and obstructing the plaintiff from*

using the passage marked by letters CDEF shown in red colour in site plan and as mentioned in the head note of the plaint, except in due course of law”.

Mr. Chaudhary, learned counsel appearing for the appellants-defendants submits that the respondent-plaintiff set up a case of purchasing the property shown as ABCDE in the site plan Ex.P1 from the father of the appellants and therefore, sought injunction of having put the gate at point DE by the defendants. He submits that the aforementioned sale deed has not been proved, much less, the possession of the room whereas from the passage, the respondent-plaintiff has an access to the property purchased, thus, the finding rendered is preposterous and without any foundation, much less, basis, in essence, the plaintiff has miserably failed to discharge the onus claiming the aforementioned relief.

I have heard learned counsel for the appellants, appraised the paper book and of the view that the sale deed regarding the purchase of the room shown ABCD has already been proved. The appellants-defendants has no business to put the gate at point DE as the plaintiff has no access to the aforementioned room except the passage. It is basically the defendants who being the sons of Sansar Chand were not happy with the act of their father and therefore, caused inconvenience by causing obstruction.

In view of the aforementioned, the judgments and decrees rendered by both the Courts below are based upon preponderance of evidence and I do not intend to differ with the same. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 16, 2016
Pankaj*