

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 1445 of 2014 (O&M)
Date of decision : January 28, 2016

Hanuman

..... Appellant

Versus

Balmukand and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for the appellant.

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?

Amit Rawal, J (oral).

The appellant-defendant is aggrieved of the concurrent finding of fact whereby the suit for permanent injunction filed at the instance of the respondents-plaintiffs has been decreed and the defendant has been restrained from interfering in the peaceful possession over land comprised in Khasra No. 3223 situated in between the southern side of Khasra No. 3224 and touching the northern boundary of village Lutafpur and further the defendants are also restrained to demolish or dismantle Kacha Doli separating the Khasra No.3223 and 3224.

Mr. Abhinav Sood, Advocate for Mr. Vikram Singh,

Advocate appearing on behalf of the appellant submits that both the courts below have committed illegality and perversity in decreeing the suit as the plaintiff is not owner of Khasra No.3224. The demarcation report ex facie proves the possession of the defendant, rightly so, the courts below could not have granted injunction. The plaintiff has failed to lead evidence in support of the averments and therefore, did not discharge the onus, the suit ought to have been dismissed, thus, a substantial question of law arise for determination by this Court.

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

The demarcation report allegedly relied upon by the appellant-defendant has been obtained by them at the back of the plaintiff. Heavy reliance has been placed on Ex.DW2/A with regard to delivery of possession whereby un-authorized possession of the plaintiff was delivered to the defendant, whereas there is no order of eviction proceedings to the aforementioned order. This fact has been admitted by DW-2 in his cross examination. The demarcation report, so called has also proved existence of Dol and the defendant has rightly been enjoined not to dismantle and demolish the same.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

January 28, 2016
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