

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

RSA No.4783 of 2015 (O&M)

Date of Decision.19.10.2016

Gurnam Singh

.....Appellant

Vs

Harbans Singh and others

.....Respondents

Present: Mr. Paramjit Rajput, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the injunction against the respondent from digging soil from the land belonging to the Gram Panchayat, has been dismissed.

Mr. Paramjit Rajput, learned counsel appearing for the appellant submits that the judgments and decrees passed by the Courts below are not sustainable in the eyes of law as they are based upon misconstrual and misreading of the agreement to sell and heavily relied upon the previous litigation between the parties to the *lis*. He submits that no doubt the Gram Panchayat was not impleaded as party but the fact remains that digging of soil/earth from the land belonging to the Gram Panchayat, caused erosion to the soil/earth of the land of the appellant-plaintiff. The revenue record placed by the appellant-plaintiff was not appreciated in correct perspective and thus, there is illegality and perversity.

I have heard learned counsel for the appellant, appraised the paper book and of the view that for substantiating the aforementioned plea, the foremost documentary/primary evidence required to be led was

demarcation report to ascertain the area in dispute. In the absence of the

same, the Court cannot decide the controversy as sought to be addressed. In the absence of the same, rightly so, the Courts below have declined to make any interference. I am of the view the appellant-plaintiff has miserably failed to discharge the onus in support of the averments made in the plaint.

For the foregoing reasons, I do not intend to differ with the findings rendered by the Courts below which are based upon correct appreciation of fact and law, much less, no substantial question of law arises for consideration in the second appeal. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 19, 2016
Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No