

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

R.S.A. No. 4837 of 2015

Date of Decision: 05.01.2016

Jaswinder Singh and others

.....Appellants

Versus

M/s Hemant Goyal Builder Private Limited 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. Jasbir Rattan, Advocate,
for the appellants.

SHEKHER DHAWAN, J

Plaintiffs-appellants have filed the present Regular Second Appeal against concurrent findings of both the Courts below whereby learned trial Judge partly decreed the suit and first appellate Court dismissed the appeal.

2. Learned counsel for the appellants mainly took the plea that under the grab of orders passed by the Courts below, respondents want to raise construction on the land which is of much more value as the same is situated on the main road. Partition proceedings are pending and the orders passed by the Courts below are detrimental to the rights of present appellants, the present appeal be accepted and the judgment and decree

passed by the Court of first instance and judgment and decree passed by the first appellate Court be set aside.

3. Having considered the facts of the case that Court of first instance passed the order that plaintiffs and respondents appear to be in exclusive possession as per the revenue record. The construction and alienation allowed by the Court shall be subject to the partition proceedings. It was also made clear that they cannot alienate or raise construction over the suit land in excess of their share. The first appellate Court while appreciating the facts involved in the controversy observed that plaintiffs who are in possession of specific portion of the suit property are entitled to raise and construction but that construction would be subject to the partition proceedings between the parties. Both the Courts below have rightly appreciated the facts and evidence available on file and returned the finding of facts. This Court while deciding the present regular second appeal cannot interfere in the findings of facts recorded by the Courts below. There are absolutely no substantial question of law involved in this case, which requires to be determined by this Court, by way of present Regular Second Appeal. Hence, the present Regular Second Appeal is without any merit and the same stands dismissed.

January 05, 2016

naresh.k.

**(SHEKHER DHAWAN)
JUDGE**