

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

RSA No.5429 of 2015

Date of Decision.19.10.2016

Harjit Singh

.....Appellant

Vs

Kashmir Singh

.....Respondent

Present: Mr. G.S. Nagra, 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 suit seeking restraint order against the respondent-defendant from forcible interference and dispossession, has been dismissed.

Mr. G.S. Nagra, learned counsel appearing for the appellant submits that the appellant had purchased the plot measuring 16.2 marlas vide sale deed dated 28.03.2007. The interference was at the behest of the son of owner who was residing in Canada. The Courts below have not appreciated the aforementioned fact, much less, the recital in the sale deed, which was the core issue for adjudication of the *lis*, thus, there is illegality and perversity.

I have heard learned counsel for the appellant, appraised the paper book and of the view that in order to substantiate the averments in the plaint, the plaintiff was required to prove the demarcation report. In the absence of the same, the appellant-plaintiff had failed to discharge the onus. The identity of the property itself was/is in dispute. The injunction was sought against the son of the owner. In the absence of the fact that the plaintiff being the owner/purchaser of the property and to deliberate upon

the question of whether interference was qua his land or of some other land, the demarcation report would have been the best possible evidence for adjudication of the controversy. In the absence of the same, I am of the view that the Courts below have rightly did not interfere to grant injunction. No ground for interference is made out.

The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 19, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No