

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

**RSA No.3107 of 2014 (O&M)
Date of decision:11.04.2016**

Roopa Ram and others

... Appellants

Vs.

Hari Singh @ Har Baba Constable and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Manish Bansal, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.7351-C of 2014

For the reasons stated in the application, duly supported by an affidavit, delay of 141 days in filing the appeal is condoned.

C.M. stands disposed of.

C.M.No.7350-C of 2014

The application is allowed, subject to all just exceptions. Legal representatives of deceased Ganesha Ram son of Poes Chand, as mentioned in the application, are ordered to be brought on record for the purpose of prosecuting the present appeal.

RSA No.3107 of 2014 (O&M)

The appellant-plaintiffs are aggrieved of the concurrent findings of facts and law, whereby, relief qua injunction against the respondent-defendants from taking illegally and forcibly possession of specific portion of the land measuring 11 bighas 18 biswas and restraint order against the defendants from raising any type of construction on any specific portion of the suit property, has been dismissed by the trial Court and upheld by Lower Appellate Court.

Mr. Manish Bansal, learned counsel appearing on behalf of the appellant-plaintiffs submits that by virtue of the judgment and decree dated 05.01.1985, the appellant-plaintiffs had become the owners by way of adverse possession. Since the respondent-defendants intended to raise construction sought indulgence of Courts below. Both the Courts below erroneously and perversely dismissed the suit on the ground that appellants have not been able to prove the specific area of house on which construction was raised, whereas, earlier decree was with regard to 11 bighas 18 biswas, in essence, there has been gross misreading of the judgments and decrees, thus, warrants interference by exercising the powers under Section 100 of the Code of Civil Procedure.

I have heard learned counsel for the appellant-plaintiffs and appraised the impugned judgments and decrees of the Courts below and of the view that until and unless the identity of the property is not established, no person can seek injunction. Witness of the

appellant-plaintiffs admitted that though the house has been constructed in the area but identity of the property has not been proved on record. In the absence of the same, rightly so, both the Courts below have decline the relief sought in the suit and appeal. In fact, the appellants have failed to prove the identity of the property for seeking injunction.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

April 11, 2016
savita