

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4401 of 2014(O&M)

Date of decision : February 26, 2016

Prem Chand

..... Appellant

Versus

Dhanpat and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. J. S. Cooner, 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).

CM No.10164-C of 2014

This is an application under Section 149 read with Section 151 CPC for making good the deficiency in court fees.

The application is allowed.

Permission granted to make good the deficiency in court fee.

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The appellant-plaintiff is aggrieved against the concurrent finding of fact whereby the suit for possession of the plot marked ABIJKD has been dismissed.

Learned counsel for the appellant-plaintiff submits that as per the site plan prepared by the draftsman it has ex facie been proved that defendants had encroached upon the area marked as ABIJKD shown in red colour as the plaintiff had been owner of the land by virtue of sale deed dated 13.12.1985, thus, both the courts below have gravely erred in declining the relief whereas umpteen number of documents have been placed on record to show that there was encroachment on the piece of land owned by the appellant-

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plaintiff.

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

The basic document for seeking possession on the encroachment by the adverse party is demarcation either during the pendency of the suit or preceded to the filing of the suit. No such effort has been made by the appellant to place on record the same.

The trial court by relying upon the aforementioned evidence, dismissed the suit. For the sake of brevity the operative part of the order of the trial court reads thus:-

“PW-1 plaintiff also deposed that he could not tell about the length and breadth of the disputed plot/land. In brief, the plaintiff is required to prove this fact that he is owner of the land which is shown as ABCDEF in the site plan Ex.P1 and the said part of land is the part of land mentioned in the sale deed Ex.PY. No revenue official was produced in evidence to speak about the fact that the land in question is the part of land belongs to plaintiff. Site plan has not been linked with the property, if any owned by the plaintiff and the said land has been encroached upon by the defendants but this fact has not been proved by the defendants. It is up to the plaintiff to prove his case by adducing sufficient and cogent evidence on the record which he has not proved. Accordingly, these issues are decided against the plaintiff and in favour of the defendants.”

In view of the aforementioned facts, the appellant has miserably failed to lead evidence in support of the averments

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made in the suit.

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. There is no 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

February 26, 2016
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