

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

**RSA No.3597 of 2013 (O&M)
Date of Order: 23.10.2017**

Balwant Singh

..Appellant

Versus

Jaswinder Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Surjit Singh Swaich, Advocate,
for the appellant.

Mr. Arvind Kashyap, Advocate,
for respondents no.1 and 2.

ANIL KSHETARPAL, J (Oral)

Plaintiff-appellant is in regular second appeal against the judgment and decree passed by the learned first appellate Court.

The dispute in the present case is with regard to existence of street towards Northern side of the property owned by the plaintiff.

Plaintiff had filed a suit claiming that the open plot towards Northern side of the property of the plaintiff belongs to him and it is part of his house. Plaintiff had relied upon a sale deed through which the plaintiff had purchased the property in the year 1992.

Learned first appellate Court has found that the site plan attached with the aforesaid sale deed proves that Western arm of the plot of the plaintiff is 90 feet whereas the plaintiff is claiming it to be 100 feet. Plaintiff had also produced on file a copy of the site plan attached with the sale deed . A look at the site plan would show that total length of the plot from Northern to Southern side is 90 feet and not 100 feet. Thus, the first

appellate Court has recorded a finding that the plaintiff has no right, title or interest in the open plot, which has been depicted in the site plan.

Learned counsel for the appellant has vehemently argued that even if the plaintiff has failed to prove his ownership over the plot in dispute, however, that itself would not give right to the respondents-defendants to claim that the open plot is a passage.

On the other hand, learned counsel for the respondents has submitted that admittedly a street is coming from the Eastern side and passing through the open plot which is 10 feet wide. He claims that the street is upto the house of the defendants-respondents.

I have considered the submissions of learned counsel for the parties and with their able assistance gone through the judgments passed by the Courts below.

Learned counsel for the appellant could not dispute the sale deed through which the plaintiff purchased the property Ex.P1, dated 27.02.1992, clearly shows that Western arm of the house of the plaintiff is 90 feet. Once it is established on the file that the plaintiff has purchased plot which is also shown in the site plan, the plaintiff has no right, title or interest in the plot, which is situated towards Northern side of the house of the plaintiff. Plaintiff can not extend the boundary of his house beyond what he has purchased.

Once it is proved on the file that it is an open plot and there is a street, which is coming from the Eastern side going upto the house of the respondents-defendants, the case set up by the defendants cannot be faulted.

Open plot is for use of everybody and if the parties are using it for the purpose of street, the plaintiff has no right to encroach thereupon.

Taking into consideration the findings of fact arrived at by the learned first appellate Court, which is not shown to be erroneous, this Court does not find any good ground to interfere with the aforesaid findings of fact.

The regular second appeal is dismissed.

October 23, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No