

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

RSA No.2604 of 2015 (O&M)

Date of decision : 30.10.2017

Sarwan Singh

...Appellant

Versus

Ram Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Gupta, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.6693-C of 2015

For the reasons given in the application, which is duly supported by an affidavit, delay of 76 days in refiling the appeal is condoned.

Application is allowed.

Main Case

The plaintiff-appellant is in Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below.

The plaintiff had filed a suit for mandatory injunction and permanent injunction directing the defendants to demolish a pucca wall constructed by them in Khasra No.19. The plaintiff asserts that he has purchased land measuring 3 ½ marlas from Gian Singh, Kashmir Singh, Jagir Singh sons of Tara Singh vide sale deed dated 24.12.2007. On the other hand, defendants denied that no sale deed was executed by Gian Singh, Kashmir Singh, Jagir Singh etc.. Defendants claimed that the

aforesaid Gian Singh, Kashmir Singh and Jagir Singh had sold 12 marlas of land to them through writing dated 04.01.1976.

Learned trial Court as well as learned First Appellate Court after appreciating the evidence available on the file have recorded findings of fact that in fact the land in dispute is being used as street in between the house of the defendants and Gurudwara Sahib which is leading from metalled road to the house of the plaintiff. The Courts below have found that it is a public street for all practical purposes. The Courts below have noticed that doors and windows of house of the defendants open towards this place.

Learned counsel for the appellant has drawn attention of the Court to Annexure A-1, which is Ex.P1 on the trial Court file, a lay out plan. A bare look at the lay out plan would show that on the northern side, there is metalled road, which is the only passage available to the house of the plaintiff from this street. The plaintiff claims ownership over this area. The plaintiff has failed to prove that ownership. The plaintiff has neither examined Vendor nor proved the title of the Vendor.

In these circumstances, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Regular Second Appeal is dismissed.

30.10.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No