

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

**RSA No. 3300 of 2015 (O&M)
Date of decision : 12.07.2017**

Bhoop Singh ...Appellant

versus

Parmil Kumar ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sumit Sangwan, Advocate
for the appellant.

RITU BAHRI, J. (Oral)

Plaintiff-appellant (herein after to be referred as 'the appellant') has come up in regular second appeal against the concurrent findings of facts recorded by both the Courts below whereby the suit of the appellant has been dismissed.

A bare perusal of the judgments shows that the appellant filed a suit for mandatory injunction against the defendant-respondent (herein after to be referred as 'the respondent') directing the respondent to remove the window fitted by him in common wall GH at point J at the level of first floor as shown in the site plan and further restraining the respondent from fitting or installing any kind of window, door, ventilators, any water outlet or any kind of fixtures and opening to the suit.

The learned trial Court while dismissing the suit of the appellant has held that there was no written compromise placed on record by the appellant to show that this was the common land and that the same

was constructed from the joint funds of the parties. The respondent has constructed the first floor of the house and had made window at point J when the suit was filed. The appellant has not led any evidence to show that at the time of partition and construction of this wall, he had contributed any amount except the two independent witnesses. The area shown by letters ALHG came to the share of the respondent and area shown by letters GHIK came to the share of the appellant. However, in the absence of any evidence that any amount had been contributed by the appellant for construction of the wall, the respondent was rightly not being restrained by both the Courts below from making window on the the first floor.

Accordingly, the concurrent findings of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

12.07.2017

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No