

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

RSA No.4134 of 2015 (O & M)

Date of decision :10.10.2017

Vijay Kumar and another

...Appellants

Versus

Municipal Corporation and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sandeep Arora, Advocate  
for the appellant.

**ANIL KSHETARPAL, J.(Oral)**

Plaintiffs are in Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiffs filed a suit for permanent injunction restraining the defendants from developing a park on the land in dispute.

Both the Courts have concurrently found that the plaintiffs have failed to claim any declaration and the suit for mere injunction is not maintainable. Learned First Appellate Court while dismissing the appeal has recorded as under:-

*“Therefore, simple suit for injunction is not maintainable. The plaintiffs have produced on record copy of power of attorney executed by Vijay Kumar as Managing Director of the Company in favour of Ram Pal Chaudhary but had not produced any document to prove that Vijay Kumar was authorised to execute the power of attorney. Copy of resolution was also not produced on record. So, the learned trial Court has rightly observed that the power of attorney and*

*statement of attorney holder cannot be considered. The additional evidence sought to be produced by the appellants was well within their knowledge when they were leading their evidence before the learned trial Court but they failed to produce the same. Therefore, now they cannot be allowed to lead additional evidence. So, application is accordingly, dismissed. The plaintiffs were rightly held not entitled to relief sought by plaintiffs. So findings of the learned trial Court on issue No.1 and 2 are based on correct appreciation of evidence on record. The same are thus, affirmed.”*

Learned counsel for the appellants at the outset submits that the plaintiffs would not press the present appeal and file a suit for declaration claiming their right, title or interest in the property.

In my considered opinion, since the learned First Appellate Court has found that mere suit for injunction is not maintainable, plaintiffs/appellants would be at liberty to seek redressal of their grievance in accordance with law.

Hence, this appeal is dismissed as withdrawn with the aforesaid liberty.

10.10.2017  
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(ANIL KSHETARPAL)  
JUDGE

Whether Speaking/reasoned : Yes  
Whether Reportable : No