

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

**RSA No.5193 of 2015 (O&M)
Date of Order: 26.07.2017**

Janak Singh

..Appellant

Versus

Darshan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vivek Suri, Advocate,
for the appellant.

ANIL KSHETARPAL, J.

Plaintiff-appellant has filed this regular second appeal against judgment and decree passed by the Additional Civil Judge (Sr. Division), Sangrur, dated 21.05.2013, confirmed in appeal by Additional District Judge, Sangrur, on 21.05.2015.

The learned Civil Judge has dismissed the application under Order 39 Rules 2-A of the Code of Civil Procedure, alleging violation of an ex-parte temporary injunction order. Learned trial Court after appreciating the evidence brought on record and after noticing that the suit itself had been withdrawn on the basis of compromise, on 29.01.1993, chose to dismiss the application.

First appeal preferred by the plaintiff was also ordered to be dismissed after re-appreciating the evidence. It was found that the defendants have not violated the ex-parte injunction order.

I have heard counsel for the appellant and have gone through the judgments passed by the Courts below with his able assistance.

Learned counsel for the appellant has argued that the judgments passed by the courts below are result of misreading of evidence. He has further submitted that the courts have not appreciated the controversy involved in the present case in a right perspective. He has further submitted that merely because the suit itself had been withdrawn that itself would not absolve the defendants.

I have carefully considered the submissions made by counsel for the appellant.

I have gone through the evidence available on the file. I do not find that there is any substantial misreading of evidence. I have also considered the arguments of learned counsel for the appellant that courts has not examined controversy in a right perspective. The only issue which required the adjudication in the present proceeding was whether defendants-respondent disobeyed the order passed by the Court on 02.12.1992. The Courts as a matter of fact has found that the order dated 02.12.1992 has not been violated.

Learned counsel for the appellant has further submitted that merely because the suit itself has been withdrawn as compromised, that would not absolve the defendants.

I have considered the submissions made by counsel for the appellant. The courts below have not absolved the defendants from the case on the basis of withdrawal of the case. The Courts below have found that the plaintiff have failed to prove that the defendant had violated the ex-parte injunction order.

Taking into consideration the facts and circumstance of the case, I do not find any ground to interfere with the concurrent findings of

Courts below, the regular second appeal is ordered to be dismissed.

July 26, 2017
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(ANIL KSHETARPAL)
JUDGE

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