

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

RSA No.1645 of 1989 (O & M)

Date of Decision:-11.1.2018

Mair Chhatrya Rajput Sabha

...Appellant

Versus

Jagdish Chand alias Jagdish Parshad and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Adarsh Jain, Advocate
for the appellant.

Mr. Mukul Aggarwal, Advocate
for respondents No.1 to 3.

AMIT RAWAL J.(Oral)

The present appeal is at the instance of the plaintiffs, who were unsuccessful before the Courts below in a suit seeking relief of permanent injunction.

In short the plaintiffs as a Society, registered on 19.11.1981 claimed the aforementioned relief on the premise that one Ghamandi Lal owned and possessed a plot described in para 5 of the plaint and died leaving behind his widow Smt. Bhagwan Dai, his son Mohan Lal and grand son Babu Ram, intended to construct a Dharamshala, Piyau and a well in the property left by Ghamandi Lal, in the memory of her husband. She carried her wish into effect in Samwat 1986 and the construction made was

being used for charitable purpose. The portion shown as GHFS in the site plan consists of shops whereas the portion ABCH according to the averments had been continuously used as Dharamshala, Piyao and well. The income from the shops was meant to be utilised for the management of the Dharamshala. Later on the portion CDGH converted into shops and the portion ABCD at the time of filing of the suit was used for Dharamshala and piyao etc. The dispute between the parties arose with regard to the ownership of the entire property and use of portion ABCD of the property. It is in this background the suit aforesaid was filed.

The trial Court on the preponderance found that the plaintiff miserably failed to prove the averments claiming injunction against the defendants. Even the ownership had also not been proved. Even in the Appellate Court the matter taken up but the findings of the trial Court not returned. This Court while hearing the appeal on 15.9.1988 admitted the appeal and no injunction was granted. The appeal is of the year 1989. It appears that the appellants must have resiled with the situation with regard to the fact of non granting of injunction. It is too late at this stage to grant the injunction.

In view of the aforesaid, no substantial question of law arises, hence, the present appeal is dismissed.

January 11, 2018
Vijay Asija

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No