

In the High Court of Punjab and Haryana at Chandigarh

RSA-2961 of 2011(O&M)

Date of Decision:17.4.2018

Wazir Singh

---Appellant

vs.

Paramjit Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. B.S.Jaswal, Advocate
for the appellant

Mr. D.S.Sidhu, Advocate
for respondents No. 3 to 5 and 7

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit of the appellant/plaintiff for permanent injunction restraining the defendants from interfering or forcibly carving out passage from house of the plaintiff and dispossessing the plaintiff from the house shown in red colour by letters 'ABCD' in the site plan enclosed, has been decreed partly to the extent of his entitlement in respect of area measuring 5 marlas 3 sarsahi by the learned trial court. The appeal preferred by the appellant did not find favour with the Additional District Judge, Moga whereby findings recorded by the trial court were affirmed without any variance.

The sole submission made by counsel for the appellant is that plea of Jagir Singh defendant No. 3 who has a house shown in yellow colour in site plan Ex. P3 is that he has no passage to have access to his house except towards

Eastern side of his house out of the property of the appellant/plaintiff shown in red colour in the site plan gets falsified and belied from the fact that gate of house of Jagir Singh is shown in green colour in the site plan and the said gate opens in a gali shown towards Western side of his house that ultimately connects to rasta on the Southern side of house of the appellant, therefore, the courts have seriously erred by rejecting claim of the appellant in respect of area measuring 6 sarsahi out of 6 marlas of land.

Counsel representing the respondents has supported concurrent findings recorded by the courts by contending that neither the judgments passed by the courts suffer from an error much less perversity nor they give rise to a question of law that needs adjudication in regular second appeal.

I have heard counsel for the parties, perused the paper book particularly the judgments passed by the court.

The appellant staked claimed to area measuring 6 marlas on the premise that allotment was made in his favour on payment of Rs. 915/- deposited by him in the treasury. Both the Courts have held that as per the conveyance deed, photocopy whereof is mark 'A', area of allotment in favour of the appellant is 5 marlas 3 sarsahi and accordingly, the appellant was held entitled to injunction in respect of area measuring 5 marlas 3 sarsahi on the basis of allotment made to him. Counsel for the appellant has failed to assail factual findings recorded by the courts that area allotted to him vide conveyance deed mark 'A' is 5 marlas 3 sarsahi as against his claim for 6 marlas of land. As the appellant failed to establish his claim in respect of 6 marlas of land, no fault can be found in the judgments passed by the courts based upon correct appreciation of materials on record allowing prayer of the appellant only in respect of 5 marlas 3 sarsahi in place of 6 marlas. As has been rightly argued by counsel for the respondents, the present appeal does not raise a question of law that needs

adjudication in the regular second appeal.

For the foregoing reasons, the appeal fails and is accordingly dismissed with costs.

(Rekha Mittal)
Judge

17.4.2018

paramjit

Whether speaking/reasoned: Yes

Whether reportable : Yes/No