

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

**RSA No.3345 of 2012 (O&M)
Date of Order:18.05.2018**

Hardial Singh

..Appellant

Versus

Sanjay Modi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Majithia, Sr. Advocate, with
Mr. Inderjeet Singh, Advocate, and
Mr. Abhimanyu Singh, Advocate,
for the appellant.

Mr. Deepak Garg, Advocate, for
Mr. Vishwajit Bedi, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the judgment and decree passed by the learned first appellate court reversing the judgment and decree of the trial court.

Plaintiff-appellant does not claim that he is owner of the property. He only claims that he is entitled to decree for permanent injunction restraining the defendants, their servants, agents and party men from interfering or trying to interfere in the peaceful and continuous possession of the plaintiff over a plot measuring 661 Sq. Yards.

Learned first appellate court after appreciating the evidence available on the file has found that it is an inhabited area and is being used as a children park. It has also come in the evidence that this land has never

been cultivated and the Municipal Committee has installed a water tap and there are swings for the children. Learned first appellate court has relied upon evidence of certain experts to record such finding.

Although, learned counsel for the appellant made very sincere attempt to persuade this court to take a different view, however, taking into consideration the lay out plan, Ex.DW2/5, it is apparent that on one side of the property, there is a income tax colony, on the other side, there is a road and thereafter a bank colony. The plot in dispute is in rectangular shape. It appears to be an area left out while developing a colony for common use.

In view thereof, there is no scope for interfere with the findings of fact arrived at by the learned first appellate court.

The regular second appeal is dismissed.

May 18, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No