

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

**104**

**RSA-1252-2016 (O&M)  
Date of Decision : 30.1.2018**

**KRISHAN KUMAR (SINCE DECEASED) THROUGH HIS LRs  
....APPELLANT**

**VS**

**HARJIT KAUR AND OTHERS                      ....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI**

Present: Mr. Divanshu Jain, Advocate  
for the appellant.

\*\*\*\*

**AJAY TEWARI, J.(Oral)**

This appeal has been filed against the concurrent judgments of the Courts below dismissing a suit filed by the appellant where he had prayed for permanent injunction restraining the respondents from demolishing the wall AB or the lintel ABCD.

The case of the respondent on the other hand was that the wall AB was the personal wall of the respondent. That as a matter of fact; there was a municipal street between the house of the appellant and the house of the respondent; that the appellant had illegally put a roof over the municipal street by installing iron girders; that they reserved their right to file a suit for mandatory injunction directing the appellant to remove that illegal construction; and that they were opening only window/ventilator in their own wall AB.

Both the Courts below held that the appellant had not been

able to prove that he was the owner of wall AB and dismissed his suit.

The only argument raised by the learned counsel for the appellant is that even if the respondents could not be restrained from opening a window/ventilator in the wall AB they in any case can not be permitted to demolish the construction ABCD which is now the effect of the judgment of the Courts below. In my opinion, this apprehension is unwarranted. Once it was the case of the respondent that they only wanted to upon window/ventilator and that they reserved right to file a suit for mandatory injunction directing the appellant to remove the illegal construction, it is clear that they had stated that they would not demolish the wall in any precipitate unilateral manner. In view of this understanding of their pleadings no injunction is required.

The appeal stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

30.1.2018  
anuradha

(AJAY TEWARI)  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | - | Yes/No |
| Whether reportable        | - | Yes/No |