

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

RSA-3602-2016 (O&M)
Date of Decision : 01.08.2018

Ram Kishan Kaushik since deceased through his LR's

..... Appellant(s)

Versus

Radhey Shyam and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Ajay Jain, Advocate.
For the appellant(s).

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit filed by respondent No.1.

The case of respondent No.1 was that between his house and the house of the appellant there was a *rasta* of 16 feet which the appellant was encroaching by making unauthorized construction. The Municipal Committee, Mahendergarh was also impleaded as a defendant.

The case of the appellant on the other hand was that in fact the *chabutra* was constructed in his own land and there was no encroachment on the *rasta*. The Municipal Committee, Mahendergarh filed a written statement corroborating the averments made by respondent No.1. They further placed on record Ex.DW 2/A a notice dated 02.02.1999 in which the Municipal Committee, Mahendergarh had informed the appellant that in the

plan which he had submitted for sanctioning the construction of his house, the *chabutra* which was shown was not within his ownership and he was directed to first come and show the ownership of the land where he was wanting to construct the *chabutra*. The Municipal Committee, Mahendergarh has also filed a written statement stating that no person had a right to construct anything over the *rasta*. Further the permission to raise construction Ex. PW1/A passed in favour of the appellant was suspended by the Deputy Commissioner as he did not produce any evidence with regard to ownership of the property.

Admittedly the appellant never responded to this notice and went ahead and made the construction, even though the sanction of his plan was revoked.

In the circumstances, no fault can be found with the judgments of the Courts below.

Appeal stands dismissed.

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

(AJAY TEWARI)
JUDGE

01.08.2018
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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No