

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

RSA No.229 of 2015 (O&M)

Date of Order:22.11.2018

Rama Devi

..Appellant

Versus

**Munna Lal (since deceased) through LRs Sarita
and others**

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akshay Jindal, Advocate,
for the appellant.

Mr. Ketan, Advocate,
for respondent no.1.

Mr. Mukesh Kumar Verma, Advocate,
for respondent nos.2 and 3.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below while dismissing suit for declaration, grant of permanent injunction restraining the defendants from raising any construction and for mandatory injunction.

Plaintiff and defendant no.1 are neighbours, owners of adjoining properties. Plaintiff claims that on the Northern side of the wall, he had opened ventilators which were in existence for the last 50 years and therefore, she has right of light and air by way of easementary right by prescription of time.

Defendants contested the suit and pleaded that ventilators have been opened only one year back.

Both the courts on appreciation of evidence have found that the

plaintiff has failed to prove her case that ventilators exists for the last 50 years. A Local Commissioner was appointed who has only reported that there are two apertures in the Northern wall of the plaintiff.

Although, learned counsel for the appellant made sincere attempt, however, could not persuade this court to take a different view than what has been taken by the learned courts below. However, learned counsel for the appellant has submitted that there is some evidence which prove that a dampness exist in the Northern wall of the plaintiff. He submits that defendant no.1 be directed to take steps to rectify the leakage, if any, on account of the water tank which is towards the side of house of defendant no.1.

Learned counsel for defendant no.1 has no objection. He submits that being a good neighbour, he would ensure that there is no leakage from the water tank.

In view thereof, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

C.M.No.565-C-2015

Prayer in this application is for condonation of delay of 18 days in filing the appeal.

For reasons mentioned in the application, which is supported by an affidavit, the delay of 18 days in filing the appeal is condoned.

Application is allowed.

November 22, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No