

RSA- 390-2016(O&M)
Date of decision : 14.11.2018

Ssumer Chand and others Respondents

Present: Mr.Krishan Singh, Advocate for the appellant.

AMIT RAWAL, J. (ORAL)

Appellant-plaintiff has not been successful seeking injunction against the defendants with regard to the area shown with letters ABCDEFGHI in the rough site plan attached with the plaint, either before the trial Court or the Lower Appellate Court.

Mr. Krishan Singh, learned counsel appearing on behalf of the appellant submitted that defendants categorically admitted the existence of courtyard as reflected in the site plan Ex.P-1. The house of respondent Sumer Chand is down below the street and, therefore, injunction could not have affected him. The Courts below misinterpreted the field book Ex.P-2 vis-a-vis the site plan Ex.P-1. Local commissioner's report has also not been taken into consideration in its correct perspective.

I have heard learned counsel for the appellant and am of the view that there is no force and merit in his submissions, for, a perusal of the field book Ex.P2 shows that the name of appellant-plaintiff Om Parkash has

been shown against serial No. 514 and the area in his possession has been shown as 6' x 15' whereas in the site plan Ex.P1 the area shown is 23' x 26'. This fact has intentionally been concealed. A person who seeks equity must do equity and in such circumstances cannot claim the injunction.

Arguments of learned counsel have not been able to bring the case within the realm of illegality and perversity enabling this Court to form a different opinion other than the one arrived at by the Courts below. No ground for interference is made out.

Appeal is dismissed.

(AMIT RAWAL)
JUDGE

14.11.2018
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No