

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

RSA No.4995 of 2016(O&M)
Date of decision: 08.05.2018

Vijay and another

... Appellants

Versus

Prithipal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate for the appellants.

ARUN PALLI, J. (Oral)

Suit filed by the plaintiffs was dismissed by the trial Court, vide judgment and decree dated 18.09.2014. As even the appeal against the said decree failed and was dismissed on 02.12.2015, the plaintiffs are in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiffs prayed for a decree for injunction restraining the defendants from causing interference in their peaceful possession over the suit property, and from causing any encroachment therein. Further, in the event the defendants succeed in encroaching upon any portion of the suit land, described in para Nos.1(a) and 1(b) of the plaint, a decree for mandatory injunction be passed directing the defendants to restore the site.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that the case set out by the

defendants was that they had no concern with the suit property, for they were owners in possession of constructed house, as described in para 6 of the preliminary objections of their written statement. Although, the plaintiffs in support of their claim had placed on record a site plan (Ex.P1), but it was not discernible as to who prepared the same. Neither did it bear the signatures of the plaintiffs nor anything was brought on record to show that it indeed was in sync with the position existing at the spot. None other than the plaintiff Vijay Pal himself (PW2), conceded this position. No cogent evidence was brought on record to show if the defendants had actually attempted to either dispossess the plaintiffs or cause any encroachment in the property owned by them. Rather, as indicated above, their positive case had been that they had no concern with the property owned and possessed by the plaintiffs. Significantly, even the finding recorded by both the Courts is that the properties of the parties were situated at two different places. On being pointedly asked, learned counsel for the appellants could not point out anything from the record to show if the conclusion arrived at by the Courts below was either contrary to the record or suffered from any material illegality.

Thus, no question of law, much less any substantial question of law, arises for consideration. The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

08.05.2018

Rajan

Whether speaking / reasoned:

YES

Whether Reportable:

NO