

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

**RSA No.5082 of 2016 (O&M)
Date of Decision.07.12.2018**

Raja Ravinder SinghAppellant
Vs
Davinder Singh ...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ravish Bansal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in seeking injunction against the defendant from causing interference/obstruction in peaceful possession of the plaintiff and from demolition of the platform constructed and uprooting of tree belonging to him on account of allotment being an evacuee shown blue colour in the site plan forming part of khasra No.6780.

It was alleged that defendant had no right and interest in the property. He claimed to have purchased the property towards northern side of the plot in question and being a police officer threatened to forcibly encroach upon the plot and demolish the platform.

The defendant opposed the suit putting blame on the defendant under the garb of injunction, there was a mens rea on the part of the plaintiff to encroach the land of the municipal council. The suit was liable to be dismissed on account of non-impleadment of the aforementioned authority. On merits, it was stated by the defendant that the alleged platform was in front of the house of the defendant where he wanted to open the door or street which was a

private property of the plaintiff.

The plaintiff examined three witnesses. Defendant examined 7-8 witnesses.

Mr. Ravish Bansal, learned counsel appearing on behalf of the appellant submitted that both the Courts below have failed to notice the categorical assertion with regard to ownership and identity of the property to be part of khasra No.6780. In such circumstances, denial of injunction on the ground of non-proof of location and identity of the property is neither here nor there, thus, there is illegality and perversity.

I am afraid aforementioned argument of Mr. Bansal is not sustainable, for, the site plan brought on record was not signed by the plaintiff. In cross-examination, the description of the property was different than the one explained in the plaint. The best possible evidence in such circumstances i.e. demarcation report has been withheld. In the absence of the same, Courts below had no other option but to dismiss the suit.

In view of the aforementioned circumstances, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 07, 2018

Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No