

RSA No. 5384 of 2016(O&M)

Date of Decision: 7.8.2018

Amarjit Singh Arora

---Appellant

versus

Harsewak Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Abhimanyu Kalsy, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for permanent injunction restraining the defendant-appellant from blocking or encroaching upon 20 feet wide street, shown red in the site plan, situated on Northern side of the property of plaintiff in the revenue estate of village Meharban, Tehsil and District, Ludhiana, was decreed by the trial court vide judgment and decree dated 13.3.2013 and appeal filed by unsuccessful defendant-appellant did not find favour with the Additional District Judge, Ludhiana.

Counsel for the appellant would argue that the respondent-plaintiff filed the suit claiming the street in question to be a public street, therefore, the appellant-defendant being not entitled to encroach upon any part of the street. The appellant-defendant filed a counter claim. The trial court decreed the suit filed by the respondent but dismissed the counter claim.

Perusal of the judgments passed by the courts would reveal that it has been consistently held by the courts that the street in question is a public street and the appellant-defendant has no right to block or encroach upon the street in question. Counsel for the appellant has not disputed that the street in question is a public street, therefore, the courts have rightly accepted claim of the respondent-plaintiff restraining the appellant-defendant from blocking or encroaching upon street in question which is meant for use by the public at large including residents of the area. No appeal has been preferred by the appellant with regard to dismissal of his counter claim. I do not find an error much less illegality in consistent findings recorded by the courts warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay of 69 days in refiling the appeal is of academic relevance only.

(Rekha Mittal)
Judge

7.8.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No