

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

106

RSA-5637-2016 (O&M)

Date of Decision : 28.02.2018

Jai Kishan

..... Appellant

Versus

Dayanand and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Arun Singal, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments and decrees of the courts below dismissing a suit filed by the appellant and decreeing the counter claim filed by the respondents.

The case of the appellant was that the respondents were trying to encroach upon his plot by demolishing the boundary wall. In the counter-claim, the respondents stated that actually it was the appellant who had already encroached upon one of their plots and they sought possession of the portion of the plot the appellant had encroached upon. Both the courts below found that while the appellant had not been able to lead any evidence that the respondents had tried to demolish his wall but the respondents had been able to establish that the appellant had encroached upon one of their plots. Two Local Commissioners were appointed to demarcate the property and both found that the appellant had encroached on a plot owned by the respondents. As regards the first Local Commissioner,

he did not issue any notice to the appellant and that is why a second Local

Commissioner was appointed and as mentioned above the courts below dismissed the suit of the appellant and decreed the counter-claim.

As regards the second Local Commissioner, the contention of the appellant was that the pucca points were not correctly fixed. In my considered opinion, these are pure questions of fact. Both the courts below have found that it was the appellant who had encroached upon the plot owned by the respondents.

Counsel for the appellant has not been able to convince me that the findings of the courts below are so perverse so as to be liable for interference in second appeal.

In the circumstances, the appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 28, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No