

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

**RSA-461-2015 (O&M)
Date of Decision: May 14, 2018**

Ram Rang (since deceased) through LRs

...Appellants

Versus

Lachhman

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Kul Bhushan Sharma, Advocate,
for the appellants.

Mr. Vishwajeet Singh, Advocate,
for Mr. Keshav Pratap Singh, Advocate,
for the respondent

ARUN PALLI, J. (ORAL)

Suit filed by the plaintiff was dismissed by the Trial Court, vide judgment and decree, dated 11.04.2012. As even the appeal preferred against the said decree, failed and was dismissed by the Appellate Court on 08.05.2014, the plaintiff is in Regular Second Appeal. The parties to the *lis*, hereinafter shall be referred to by their original positions in the suit.

The plaintiff prayed for a declaration that he was the owner in possession of land marked by letters 'LMGNL', shown in blue colour in the site plan, which formed part of his property, i.e. EP-806. And also for a decree for possession to remove the encroachment, and restore the suit property to its original position.

On consideration of the matter in issue, and the evidence on record, both the courts concurrently concluded that the plaintiff had proved that he had purchased the property, bearing No. EP-806, from Rehabilitation Department, pursuant to a conveyance deed (Ex.P-3/A). But it was also true

that the defendant had proved on record that the property purchased by the plaintiff was separate and distinct from property No. EP-806-A, which was purchased by Sukh Dayal son of Kirpa Ram, vendor of the defendant-respondent, vide conveyance deed (Ex.DX). Further, the site plan proved on record also showed that property No. EP-806, was not part of property No. EP-806-A. Likewise, it remained unsubstantiated that the alleged encroachment/disputed shop, marked vide letters 'LMGN', shown in blue colour in the site plan (Ex.P1), was a part of property bearing No. EP-806. Rather, to the contrary it formed part of property No. EP-806-A. The plaintiff had also proved on record a demarcation report (Ex.PW4/A), which too did not show if any part of the property of the plaintiff was indeed encroached by the defendant. Onus was upon the plaintiff to prove that the defendant had caused any encroachment over an area that formed part of his property, which he failed to discharge. On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show that the conclusions arrived at by both the courts were either contrary to the record or suffer from any material illegality.

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

(ARUN PALLI)
JUDGE

May 14, 2018

P Kapoor

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO