

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

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RSA No.6435 of 2016 (O & M)
Date of Decision:08.05.2018

Poonam Madan (since deceased) through LRs ...Appellant

Versus

Ravinder Mohan and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sachin Mittal, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

CM No.16883-C of 2016

Exemption as prayed for is granted.

CM No.16884-C of 2016

Application is allowed, subject to all just exceptions.

Legal heirs of appellant No.1-Poonam Madan as mentioned in
Para 3 of the application are brought on record for the purpose of
prosecuting this appeal only.

Amended memo of parties is taken on record.

Main Case

Plaintiffs-appellants are in the regular second appeal against the
concurrent findings of fact arrived at by the Courts below dismissing the
suit for declaration and permanent injunction. Plaintiffs and defendants are
neighbours. Plaintiff claims that in between the property of the plaintiff and
defendant, there is an open space and part whereof belongs to him.

Both the Courts have relied upon an earlier suit filed by the
predecessor of the plaintiff Nos.1 and 2 Ex.DW-3/1, wherein the plaintiff

while describing his property has shown that the property of the defendants is adjoining neither any open space nor any street has been disclosed. Once the predecessor of the plaintiff admitted in the pleadings of the previous that the property of the defendant is adjoining, the plaintiffs cannot now be permitted to plead the contrary.

In view thereof, there is no scope for interference.

Regular second appeal is dismissed.

08.05.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No