IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

104

RSA-889-2016 (O&M)
Date of Decision : 18.09.2018

Rohtas ..... Appellant

Versus

Sher Singh and others ..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

***

Present : Mr. Adarsh Jain, Advocate
for appellant.

***

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the judgment of the lower appellate court reversing that of the trial court and thereby declining an injunction sought by the appellant.

The case of the appellant was that his father had been allotted 7 marlas plot by the Gram Panchayat, Khirbi bearing Khasra No.150 where his father laid the foundation of the house but now the respondents were trying to interfere in that property.

The case of the respondents on the other hand was that the property in dispute was comprised in khasra No.151 with which the appellant or his father had no connection.

The trial court decreed the suit but the lower appellate court held that in the absence of any demarcation report or any other affirmative evidence led by the appellant regarding the exact location and the number of property in dispute, the suit could not be decreed and hence the present appeal.

ASHISH
2018.09.20 11:56
I attest to the accuracy and
authenticity of this document
Chandigarh

Counsel for the appellant has argued that DW3 had himself admitted that the plots Nos.150 and 151 were not contiguous and rather there was a path between them. As a consequence, it is his contention that once there is no dispute about the ownership of plot No.150, the injunction should be granted.

In my considered opinion, the argument is incomplete. No doubt there is no dispute regarding the ownership of khasra No.150. The dispute is regarding its exact location. The mere fact that one of the respondents had stated that there was a path between the two plots would not suffice it to say that the plot which was claimed by the appellant was plot No.150.

In the totality of circumstances, I am not persuaded that the findings of fact recorded by the lower appellate court are either based on no evidence or based on such a perverse misreading of evidence so as to justify interference of this Court in second appeal.

Appeal is dismissed. No costs.

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

(AJAY TEWARI)
JUDGE

September 18, 2018
ashish

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No

ASHISH
2018.09.20 11:56
I attest to the accuracy and
authenticity of this document
Chandigarh