

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

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**CM-224-C-2017 in/and
RSA-111-2017 (O&M)
Date of Decision : 19.02.2018**

Leela Devi (deceased) through LRs.

..... Appellants

Versus

Janesh Maleri and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Gursimran Singh Bawa, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

CM-224-C-2017

For the reasons recorded, the application is allowed. Delay of 55 days in filing the appeal is condoned.

RSA-111-2017 (O&M)

This appeal has been filed against the concurrent judgments of the courts below dismissing the suit filed by the appellants.

The claim of the appellants was that there was a joint wall between their house and the house of the respondents which was 30 inches thick and in that joint wall the respondents were illegally trying to carve out almirahs thereby usurping about 8 inches of wall which would otherwise fall to the appellants to utilize in any manner. The case of the respondents on the other hand was that the wall between the houses were only 10½ inches and they had constructed almirahs on their side of the wall.

examined. The courts below disregarded self-serving oral testimony of one of the appellants and as regards the site plan prepared by the draftsman and his testimony, rejected the same by noticing that the draftsman had nowhere mentioned that how he had estimated the thickness of the joint wall to be 28 inches because admittedly he had neither given any notice to the respondents nor had he visited their portion of the house. Further there was no document on the basis of which the draftsman said that the thickness of the joint wall was 28 inches.

Counsel for the appellants has not been able to show me how the findings of the courts below are wrong. Even the opinion of the draftsman is merely conjecture because on viewing the wall from one side nobody can estimate its thickness and it is only by measurement of the internal dimensions of the rooms of both the houses can the thickness of the joint wall be determined.

Appeal is dismissed. No costs.

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

February 19, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No