

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

**RSA-1539-2018 (O&M)
Date of Decision: 24.07.2018**

Avtar Singh

... Appellant

Versus

Hari Lal

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Tarun Kumar Walia, Advocate for
Mr. D.V. Dhindsa, Advocate for the appellant.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

Plaintiff is in second appeal before this Court having remained unsuccessful in both the Courts below.

2. Brief facts of the case are that the plaintiff/appellant instituted a suit for permanent injunction restraining the defendant from interfering in any manner in the suit property marked as ABCDEF and shown in red colour in the site plan attached with the plaint. Case set up on behalf of the plaintiff was that he is owner in possession of the suit property and which is situated in the *abadi deh* of village Barot.

3. Suit was contested and the defendant filed a written statement taking a stand that plaintiff is not the owner of the suit property/house reflected in the site plan and rather Gram Panchayat is the owner of the suit property and the intent of filing the suit is to encroach upon the street.

4. Trial Court having examined evidence adduced on record and having heard counsel for the parties has dismissed the suit vide judgment dated 17.10.2014. A civil appeal preferred by the plaintiff/appellant has met the same fate vide judgment dated 28.11.2017 passed by the learned Additional District Judge, Kurukshetra.

5. Resultantly, the present appeal.

6. Counsel for the appellant has been heard at length and the pleadings on record have been perused.

7. A concurrent finding has been returned by the Courts below to the effect that no evidence had been adduced on record to reflect ownership of the plaintiff/appellant over the suit property. Even as regards possession is concerned, the trial Court has adverted to a report, Ex.DW3 that had been submitted by the Block Development and Panchayat Officer, Ladwa, Kurukshetra, which had been submitted upon inspection of the spot in proceedings initiated under Section 133 Cr.P.C. and in which, it had been mentioned that the portion in the site plan ABCD i.e. forming part of the suit property is in fact a street. The report further recorded a finding that plaintiff/appellant had illegally encroached upon the *gali*/street by putting fodder etc. and which was creating hindrance to the villagers.

8. Counsel does not dispute the factual premise that no objections had been filed by the plaintiff/appellant to the report submitted by the government official after visiting the spot.

9. In the facts and circumstances of the case, this Court does not find any infirmity in the view taken by the Courts below in declining the relief of permanent injunction to the plaintiff/appellant.

10. The instant appeal does not raise any substantial questions of law.

11. Dismissed.

12. Pending applications, if any, shall also stand disposed of.

24.07.2018

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No