

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 2371 of 2017(O&M)
Date of decision: 08.10.2018

Balwant Singh

.. Appellant.

vs.

Gram Panchayat, Gharwal and ors.

.. Respondents

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Ranvir S. Chauhan, Advocate
for the appellant.

Harinder Singh Sidhu, J.

CM-5780-C-2017

For the reasons mentioned in the application, delay of 70 days
in re-filing the appeal is condoned.

Civil Miscellaneous application stands disposed of.

RSA-2371-2017

The appellant has filed regular second appeal against the judgments and decrees of both the Courts below whereby his suit for permanent injunction for restraining the respondents-Gram Panchayat Gharwal and others from demolishing the boundary wall of his '*Gher*' has been dismissed.

The Courts below on the basis of evidence including the report of the Local Commissioner have recorded a finding that the suit property was bounded by a wall only 3/4 feet in height and the plaintiff was using it for putting upla (cow-dung cakes). It was concluded that thereby it could not be held that he was in settled possession of that piece of land. Moreover, the house of the plaintiff was not close to the plot in question, so the *gher* could not be even called as extended part of the house.

No witness was examined by the plaintiff to prove that he was in possession of the suit land since long and was using the same for his domestic purposes. It was concluded that the plaintiff had encroached upon the land, which was lying vacant in the *abadi-deh* of the village. The said land was shamlat deh of the village within the meaning of Section 2(g) of the Punjab Village Common Lands Act, 1961. It was further held that if the plaintiff claimed his ownership over the property he had a remedy to proceed under Section 13 of the said Act and civil Court jurisdiction was specifically barred.

Both on facts and law, there is no merit in the appeal.

Dismissed.

08.10.2018
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned
Whether Reportable:

Yes
Yes/No