

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112 (2 cases)

Date of Decision : 13.08.2018

1) CM-8005-C-2017 in/and RSA-3275-2017 (O&M)

Gurnamo @ Gurnam Kaur Appellant

Versus

Sukhdev Singh and others Respondents

2) CM-7788-C-2017 in/and RSA-3136-2017 (O&M)

Nikka Singh and others Appellants

Versus

Mann Singh Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. N.S. Kandhola, Advocate
for the appellant(s).

AJAY TEWARI, J. (Oral)

CM-8005-C & 7788-C-2017

For the reasons recorded, the applications are allowed. Delay of 20 days in filing the appeals is condoned.

RSA-3275 & 3136-2017 (O&M)

These two appeals arise out of the same set of facts have been filed against the concurrent judgments of the courts below. Both the appeals are decided by the common order.

The appeal bearing RSA No.3275 of 2017 has been filed by the appellant against the respondents seeking an injunction restraining them from discharging their dirty water in the drain. The appellant's claim was

that it was their private street.

The appeal bearing RSA No.3136 of 2017 arises out of a suit filed by the respondent – Mann Singh wherein he had sought an injunction restraining the appellants who were trying to stop the respondent to use drain adjoining to their wall (also claimed that it was a public street),

Both the courts below have dismissed the suit of the appellant-Gurnamo and decreed the suit of the respondent – Mann Singh (though the lower appellate court has given a direction to which reference would be made later).

The case of the appellant-Gurnamo was that 5 foot passage was part of the land purchased by her husband and two other persons and they had left it as a private passage when they had built their houses. However, except for placing the sale deed of her husband on record, no other evidence was led by the appellant to prove that 5 foot passage was actually situated in their land. Moreover, PW-3 Manjit Singh admitted that the drain and the street had been constructed/reconstructed by the Gram Panchayat. Manjit Singh also admitted that the respondents were not running any industrial or commercial unit in the premises and that it was being used only as a residential house. It was in these circumstances that both the courts below held that the appellants had failed to prove their case while the respondents had succeeded in proving theirs. However, when while dismissing the appeals of the appellants, the lower appellate court had directed the respondents to ensure that the discharge of dirty water should be done in such a way so as to not harass the appellants or cause any other pollution.

Counsel for the appellant(s) has not been able to show any evidence which may prove that the street in dispute was a private street.

Once it was not a private street and the drain was constructed near the houses which abut that drain, the water would have to discharge in that drain only. It is of course a matter of good neighbourliness and community spirit that water should be discharged in such a manner that it does not cause pollution to anybody's house.

In the circumstances, I find no merit in appeals. Appeals are dismissed. No costs.

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

August 13, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No