

RSA-3593 of 2017(O&M)
Date of decision : 21.11.2018

Nirmal Masih and another Respondents

AMIT RAWAL, J. (ORAL)

The contention is that the Courts below have failed to

appreciate the evidence brought on record. It has been unequivocally established on record that street was a private one and was for personal use of the plaintiff. The sale deed dated 16.03.1971 Ex.P1 was the testimony of the same.

I am afraid the aforementioned argument of learned counsel for the appellant is not sustainable as DW2 Satnam Singh-Sarpanch deposed that it was a public street and had been constructed by the Gram Panchayat. No contrary evidence in this regard has been led. It is a common practice amongst the villagers to refer the street to be a private one in the sale deeds which subsequent vendee believes it to be correct. Plaintiff has failed to discharge the onus in such circumstances injunction has rightly been denied.

I do not find any illegality and perversity in the findings of the Courts below so as to warrant interference by this Court.

Appeal is dismissed.

(AMIT RAWAL)
JUDGE

21.11.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No