

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4219 of 2017
Date of decision : November 15, 2018

Chuhar Singh

..... Appellant

Versus

Surinder Kumar Singhal

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. S. Mamli, Advocate
for the appellant.

AMIT RAWAL, J (oral).

The appellant-plaintiff has not been able to seek possession in respect of suit property measuring 55' x 8' being part of plot No.73 alleged to have been encroached to some extent by the defendants.

The plaintiff examined number of witnesses including the Local Commissioner, as per report, plaintiff has been found to be owner of Plot No.71 and 72 which was sold to Baldev Singh and Harbans Singh further to Surinder Singh vide sale deed dated 8.12.2005. The trial court after noticing the entire evidence, much less report of the Local Commissioner examined by the defendants and formed the opinion that plaintiff had failed to prove the alleged encroachment. Appeal filed against the same was also dismissed.

Learned counsel for the appellant submitted that the plaintiff had no concern with plot No.71 and 72. The encroachment was only on plot No.73 but focus of the court heavily remained on some other point and erroneously formed opinion by holding that the plaintiff was not

owner of plot No.73. Sale deed reflected ownership of only plot No.71 and 72, therefore there is gross illegality and perversity in the judgments and decrees of the courts below much less mis-reading of evidence.

I have heard learned counsel for the appellant and appraised the paper book and of the view that the aforementioned argument of the learned counsel for the appellant has no substance, for, during the pendency of the suit an application for amendment of the plaint to incorporate encroachment upon plot No.71 and 72 was moved, which was dismissed. In such circumstances the whole case set up before this Court as well as trial court was figment of imagination. The plaintiff has miserably failed to establish that the encroachment was upon plot No.71 and 72 or upon plot No.73.

In view of the aforementioned, the concurrent finding of fact arrived at by both the Courts below do not call for interference. The argument of learned counsel for the appellant has not been able to cut ice to bring the finding of the Courts below within the realm of illegality and perversity. No ground for interference is made out. The second appeal stands dismissed.

(AMIT RAWAL)
JUDGE

November 15, 2018
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No