

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

RSA No.3993 of 2018(O&M)

Date of Decision: 18.07.2018

Babu Ram

.... Appellant

Versus

Balwinder Singh @ Kaai and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vipin Yadav, Advocate
for the appellant.

RAJ MOHAN SINGH, J. (Oral)

[1], Plaintiff is in second appeal in a suit for permanent injunction.

[2]. Restraint was sought against installation of a factory of commercial use in the residential area and encroaching upon portion belonging to the plaintiff. Directions were also sought to restrain the defendant No.4 from issuing licence. House of the plaintiff is situated in the adjoining property.

[3]. Defendant contested the suit and took a specific stand in the written statement that he has already leased out the property in question to M/s Sukhmani Industry and M/s Sukhmani Industry has installed a light machine, however, raising of construction was denied. Rent deed dated 14.12.2011 and registration of industry with defendant No.4 were pleaded.

[4]. Though the defendant has also pleaded that there

are many industries in the close vicinity of the property in question and only 10 horse power electric connection has been installed in the premises which has been leased out to M/s Sukhmani Industry. Once a specific stand is taken in the written statement, disclosing the factum of leasing out the property in favour of the M/s Sukhmani Industry, then it was obligated on the part of the plaintiff to implead the aforesaid lessee. Relief of permanent injunction is personal in nature. Without impleading the lessee M/s Sukhmani Industry, no relief can be granted to the plaintiff against a person who has not created any nuisance as alleged.

[5]. Public nuisance is governed by Section 91 CPC. Competence of the plaintiff to maintain the suit without leave of the Court and the same having not filed by Advocate General is negated.

[6]. No law point worth consideration is involved in the present appeal. The present appeal is accordingly dismissed. Since the appeal has been dismissed, therefore, there is no necessity to pass any order in the application for condonation of delay.

July 18, 2018

Prince

Whether reasoned/speaking

Whether reportable

(RAJ MOHAN SINGH)

JUDGE

Yes/No

Yes/No