

RSA No. 4454 of 2018(O&M)

Date of Decision: 30.7.2018

Sadhu Ram since deceased through LRs.

---Appellants

versus

Sheo Ram

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Sumit Sangwan, Advocate
for the appellants**

Rekha Mittal, J.

CM No. 11806-C of 2018

Prayer in this application is for impleading legal representatives of appellant Sadhu Ram (since deceased).

Heard.

Allowed as prayed for. The persons mentioned in para 2 of the application are allowed to be brought on record as legal representatives of appellant Sadhu Ram (since deceased) for the purpose of present lis and subject to just exceptions.

Disposed of accordingly.

RSA No. 4454 of 2018

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for mandatory injunction filed by the respondent-plaintiff directing the appellants-defendants to reconstruct foundation on northern edge of gair mumkin rasta comprised in

khasra No. 33/10/2/3 as per jamabandi for the year 2002-03, situated within the revenue estate of village Muzafat, Tehsil Jagadhri, District Yamunanagar and restore the same in original position and further for permanent injunction restraining the appellants-defendants from changing existing position of the aforesaid rasta was decreed by the trial court vide judgment and decree dated 13.2.2013 and the appellants-defendants remained unsuccessful before the first Appellate Court whereby appeal preferred by the defendants came to be dismissed on 6.1.2017.

The courts have recorded consistent findings of fact in favour of the plaintiff-respondent with regard to the passage in question. Counsel for the appellants has failed to point out any materials on record that can show that factual findings recorded by the courts suffer from perversity much less raise a question of law that needs determination in regular second appeal.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

30.7.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No