

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

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**RSA-5179-2018 (O&M)
Date of Decision : 12.09.2018**

Anand Appellant

Versus

Rambir Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. B.R. Vohra, Advocate
for the appellant.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit filed by the respondent wherein he had sought an injunction restraining the appellant (his immediate neighbour) from resting the supports of his roof on the wall which as per the respondent was his exclusive wall.

The case of the appellant was that actually the wall was his exclusive wall. Moreover, beyond the wall there was a street of 5 feet which had been left by the appellant in his property but the respondent had encroached on the said street and was wrongly claiming the wall to be his.

Both the courts returned the pure finding of fact that on the evidence led the case of the respondent was more probable and decreed the suit. Hence the appellant is before this Court.

Counsel for the appellant has argued that one witness of the respondent PW2 had admitted in her cross-examination that the father of

the respondent had permitted the appellant to rest the support of the roof on the disputed wall. As per the counsel, this deposition by the witness of the respondent clearly reveals that the wall was at least a common wall.

In my opinion, this statement does not reveal that the wall was a common wall because as per that witness also the father of the respondent had permitted the appellant and not that the appellant had put the support of the roof on the wall as of right.

In the totality of circumstances, I am not persuaded that the findings of fact recorded by the courts below are either based on no evidence or based on such a perverse misreading of evidence so as to justify interference of this Court in second appeal.

Appeal is dismissed. No costs.

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

September 12, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No