

RSA-3662-2016 (O&M)

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

**RSA-3662-2016 (O&M)
Date of decision : 12.03.2019**

Partap Singh

... Appellant

Versus

Atma Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. M.S. Dua, Advocate for
Mr. Parvez Chugh, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The short point involved in the present regular second appeal is whether the plaintiff could succeed in a suit for mandatory injunction directing the defendant to remove the encroachments and restore the passage in its original position being 2 karams in width shown by letters 'ABCD', in the absence of any demarcation. The answer is 'No'. This is what has been held by the Courts below. It is not understandable that once the plaintiff had sought the aforementioned relief, did not take the assistance of any authority or the Court for demarcation of the land proving the alleged encroachment. In my view, the plaintiff miserably failed to discharge the onus as per the provisions of Section 101 of the Indian Evidence Act.

The applications seeking condonation of delay in filing and re-filing the appeal, are bereft of any plausible explanation.

Accordingly, the present second appeal is dismissed on the ground of limitation as well as on merits.

12.03.2019
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**