

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 103

Case No. : RSA No. 5663 of 2016 (O&M)

Date of Decision : July 11, 2019

Karnail Singh and another Appellants

vs.

Jasbir Singh and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. S. K. Sandhir, Advocate
for the appellants.

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DEEPAK SIBAL, J. (Oral) :

The appellants filed a suit before the Additional Civil Judge (Senior Division), Ludhiana (for short – the Trial Court) seeking therein to restrain the respondents and their family members etc. from raising any construction illegally and forcibly over 02 kanals of land detailed and described in the head note of the plaint (for short – the suit property).

The case set up by the appellants was that they were residents of Village Dhurkot and that the suit property was reserved for common purposes for all of the inhabitants of the Village. However, the same was being encroached upon by the respondents, who were owners in possession of the land, which was adjoining the suit property. When the appellants requested the respondents not to raise construction over the suit property, they did not respond. Hence, the appellants instituted the aforesaid suit.

On being put to notice, the respondents, who were the defendants in the suit, appeared before the Trial Court and contested the appellants' suit. They inter alia submitted that the appellants had based their claim on forged and fabricated revenue record. They further stated that the case set up by the appellants was vague as they had not disclosed as to how much land was owned by them and how much land was reserved for common purposes.

During the course of the trial, the two witnesses examined by the appellants did not make themselves available for cross-examination. No other evidence was led by them. In these circumstances, the Trial Court dismissed the appellants' suit under Order 17 Rule 3 CPC. The appellants filed an appeal against the dismissal of their suit by the Trial Court which was also dismissed. It is in these circumstances that they have now knocked at the doors of this Court through the present second appeal.

Counsel for the appellants has been heard.

A perusal of the record reveals that in support of their contentions, the only evidence produced by the appellants was in the form of two witnesses, who did not make themselves available for cross-examination. That being so, the Trial Court rightly discarded the statements made by them in their examination-in-chief. No other evidence is found to have been led by the appellants and this is in spite of the fact that they were granted as many as six effective opportunities to conclude their evidence. When they failed to do so, the Trial Court ordered closure of their evidence through its order dated 19.11.2012, which order was not challenged by the

appellants.

In view of the above, the concurrent findings recorded by both the Courts below do not warrant any interference.

No question of law much less any substantial question of law arises for consideration in the present second appeal.

Dismissed.

(DEEPAK SIBAL)
JUDGE

July 11, 2019
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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>