

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

**RSA No.4893 of 2017 (O&M)**

**Date of Decision.11.02.2019**

Jai Verma

...Appellant

Vs

Vinay Walia and others

...Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Parminder Singh, Advocate  
for the appellant.

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**AMIT RAWAL J. (ORAL)**

The appellant-plaintiff has not been successful in claiming declaration challenging the sale deed dated 03.11.2006 registered on 10.11.2006 executed by defendant No.2 in favour of defendant No.1 in respect of land measuring 136.25 sq. yards.

It was alleged that the plaintiff was resident of H.No.1473, Badhshahi Colony as shown in blue colour in the site plan. There was *gali*/street measuring 10-11 feet running towards North to the house of plaintiff and on Eastern side 20 feet cemented. Plaintiff along with all inhabitants had been using the same, which had been in existence for the last 60 years. Joginder Mohan has allegedly encroached upon the street in question. Defendant No.2 being influential person instituted suit for mandatory injunction for removing the encroachment and trial Court vide judgment and decree dated 22.02.1995 decreed the same, directing removal of the encroachment. Now, defendant No.2 has himself sold the property belonging to him with the alleged encroachment.

Defendants opposed the suit and denied the averments, much less, maintainability of suit being hit by provisions of Order 2 Rule 2 CPC. It was stated that there was no gali in the plot purchased by

defendant No.1 from defendant No.2.

The trial Court dismissed the suit which was affirmed in appeal before the lower Appellate Court.

Mr. Paraminder Singh, learned counsel appearing on behalf of the appellant-plaintiff submitted that Courts below ignored the site plan Ex.P1 and the judgment and decree dated 22.02.1995 wherein the present appellant-plaintiff was not party. It was based upon a different cause of action, thus, urges this Court for setting the finding under challenge.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit, for, plaintiff miserably failed to establish that the sale deed was not of the area belonging to defendant No.2 and also included encroachment. No demarcation report or any local commissioner appointed to prove said encroachment. The appellant-plaintiff did not have any *locus standi* to assail the sale deed.

The appeal is also accompanied by an application seeking condonation of delay of 124 days in filing of the appeal. The explanation lacks reasonable cause and bona fide.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)  
JUDGE

February 11, 2019  
Pankaj\*

Whether Reasoned/Speaking    Yes

Whether Reportable                No