

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

**RSA No.522 of 2017 (O&M)  
Date of Decision.28.03.2019**

Hari Ram

...Appellant

Vs

Umrao Singh (deceased) through LRs and others

..Respondents

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

Present: Mr. J.P. Jangu, Advocate  
for the appellant.

-.-

**AMIT RAWAL J. (ORAL)**

**C.M. No.1122-C of 2017**

For the reasons stated in the application, delay of 5 days  
in filing the appeal is condoned.

Application is allowed.

**RSA No.522 of 2017**

The present appeal is directed at the instance of  
defendant No.3, who, along with defendants No.1 and 2 was counter-  
claimant in suit seeking permanent injunction filed by relying upon  
the demarcation report dated 7.7.2007 Ex.DW2/A alleging  
encroachment of 1 kanal 2 marlas by the plaintiff, has not been  
successful before both the Courts below.

Respondent-plaintiff sought injunction against the  
appellant-defendant in respect of 1/3<sup>rd</sup> share out of land measuring 18  
kanals 15 marlas comprising of khewat No.205 khatauni 244 as  
defendants in connivance with each other wanted to dispossess the

plaintiff and therefore, cause of action accrued to file the suit.

Defendants opposed the suit and stated that on the basis of request submitted, Halqa Kanungo on 7.7.2007 demarcated the suit property and it was found plaintiff to be in encroachment of certain parcel of land, thus, set up a counter-claim.

Plaintiff in support of the pleadings examined three witnesses and brought on record Ex.P1, P2 and site plan Ex.PW2/A whereas the defendants examined Sarjeet Singh, Clerk Record Keeper, DC Office, Narnaul as DW1, Kanwar Singh Kanungo as DW2, Hari Singh Lambardar as DW3 and other witnesses and brought on record various documents including Ex.DW2/A demarcation report and Ex.DW7/A jamabandi for the year 2001-2002.

Learned counsel for the appellant submitted that the lower Appellate Court misread the report Ex.DW2/A establishing that 1 kanal 2 marlas was unauthorizedly encroached by the plaintiff, thus, counter-claim set up by the appellant-defendant should have been allowed.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit for the simple reason that in order to take support of the report, it was obligatory upon the counter-claimants to establish their ownership by placing on record jamabandi vis-a-vis the area and holding or any part thereof stated to be encroached upon by the plaintiff. In the absence of the same, it is not decipherable to whose area was encroached, thus, remained a mystery.

In view of the 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**

**March 28, 2019**  
Pankaj\*

Whether Reasoned/Speaking    Yes

Whether Reportable                No