

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

RSA No. 5390 of 2018(O&M)

Date of decision: 16.9.2019

Ram Chander

.....Appellant

VERSUS

Digh Ram

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Yash Dev Kaushik, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for declaration with consequential relief of permanent injunction in respect of gali shown in red and yellow colour in the site plan being the private gali of the respondent and co-sharers of land comprised in khasra number detailed in para 1 (un-numbered) of the judgment of trial Court and consequential relief of permanent injunction restraining the appellant/defendant from interfering in raising wall by respondent between points A and B shown in the site plan and demolishing the said wall in future was decreed by the trial Court vide judgment and decree dated 30.01.2016 that came to be affirmed in appeal filed by unsuccessful appellant/defendant.

Apart from the fact that the appeal has been filed after delay of 238 days without any sufficient explanation, the appeal sans merit and deserves to be dismissed.

Counsel for the appellant would argue that one of the witnesses examined by the plaintiff/respondent had stated that the gali in question was concretization by the Municipal Committee, Sohna and the said fact is sufficient to falsify and belie plea of the respondent/plaintiff that the disputed gali is a private gali, thus, appellant/defendant has the right to use the same.

I have heard counsel for the appellant, perused the paper-book particularly the judgments impugned and records.

The Courts have recorded consistent findings accepting plea of the respondent/plaintiff that gali in question is a part of khasra number which is co-owned by the respondent/plaintiff. The appellant examined Rajpal, JE, MC, Sohna to counter case of the respondent and substantiate his plea that the gali in question is a public street. The witness produced document Ex.DW3/A. Both the Courts have consistently held that document Ex.DW3/A does not advance cause of the appellant as Rajpal had stated that he cannot tell whether document Ex.DW3/A pertains to Ward No.7 or not. There is nothing on record suggestive of the fact that MC, Sohna ever notified the gali in question as a public street by following the procedure relevant in that context. In this view of the matter, it can safely be held that findings recorded by the Courts are based upon materials on record and do not warrant intervention.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

SEPTEMBER 16, 2019

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no