

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

RSA No. 646 of 2018(O&M)

Date of decision: 3.9.2019

Jai Bhagwan

.....Appellant

VERSUS

Somal and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sandeep Thakan, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against consistent findings recorded by the Courts whereby suit for permanent injunction filed by the appellant was dismissed by the trial Court vide judgment and decree dated 21.05.2014 that came to be affirmed in appeal by the Additional District Judge, Bhiwani vide judgment and decree dated 06.01.2017.

Perusal of the judgments passed by the Courts would reveal that though the appellant/plaintiff has also sought injunction in respect of house shown as ABCD in green colour in the site plan attached with the plaint and described in headnote of the plaint but the real dispute between the parties is in respect of a street stated to be on the western side of the house of plaintiff in respect whereof the appellant sought injunction restraining the defendants from creating any interference in the street and taking sewer connection laid by M.C. Bhiwani.

The plea of the appellant is that the street in question is a *gali sare aam* and the same is used by the plaintiff for the past many years, maintained by M.C. Bhiwani and a sewer line has been laid therein by M.C. Bhiwani.

Counsel for the appellant, in response to a query, would fairly inform that the appellant did not examine a representative of the Municipal Committee, Bhiwani to establish his plea that the street in question is a public street and M.C. Bhiwani has laid sewer line in the said street. He has also failed to lead sufficient evidence to establish his plea with regard to his right in the street in question. That being so, I do not find an error much less perversity in consistent findings recorded by the Courts that would call for intervention.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay in re-filing the appeal is of academic relevance only.

SEPTEMBER 3, 2019

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no