

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 683 of 2018 (O&M)

Date of decision : 19.12.2019

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Karnail Ram s/o Bhajna Ram

.....Appellant

vs.

Karnail Ram s/o S. Phuman Singh and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. H.K. Aurora, Advocate for the appellant

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H. S. Madaan, J. (Oral)

Briefly stated, facts of the case are that plaintiffs Karnail Ram son of S. Phuman Singh and Lehmbhar Singh son of Kartara @ Kartar Singh, had brought a suit against defendants Karnail Ram son of Bhajna Ram and Jatinder Kumar son of Karnail Ram, praying for grant of permanent injunction restraining the defendants from encroaching upon the common rasta/gali marked as ABCD shown in red colour in the site plan attached with the plaint, situated at village Nanak Pindi, P.O. Jamsher Khas, Tehsil and District Jalandhar. They also craved for issuance of restraint order against defendants from blocking the passage of the houses of the residents residing in the said street and from demolishing the projection of the house of plaintiff No.,1, constructed at its 1st Floor shown as EF in the site plan attached.

On notice, the defendants appeared and filed a joint written statement contesting the suit. They had raised a counter claim seeking a decree for permanent injunction restraining plaintiffs No. 1 and 2 and their other community members from interfering into possession of the defendants and not to take forcible possession under the muscle power and not to raise any illegal constructions over the property measuring 2 ½ marlas as mentioned in the sale deed dated 17.6.1996, besides craving for grant of mandatory injunction directing the plaintiffs to remove the encroachment from the disputed property.

On conclusion of the trial, the Court of Civil Judge (Junior Division), Jalandhar, vide judgment and decree dated 21.10.2015, decreed the suit of the plaintiffs and in the process restrained the defendants from encroaching upon the common rasta/gali detailed in head note of the plaint. They were also restrained from blocking the said passage/street and also from demolishing the projection of the house of plaintiff No.1 constructed at its 1st Floor shown as EF in the site plan, forcibly and illegally. Whereas counter claim filed by the defendants was dismissed.

The defendants had challenged the said judgment, before the District Judge, Jalandhar, by way of filing an appeal, which was assigned to Additional District Judge, Jalandhar, who vide judgment and decree dated 27.9.2016, affirmed the judgment and decree passed by the trial Court. Now the defendant No.1 has approached this Court by way of filing the regular second appeal.

I have heard learned counsel for the appellant, besides going through the record.

In view of the concurrent findings recorded by the Courts below, finding merit in the claim of plaintiffs and counter claim raised by defendants to be without any force and considering the fact that the judgments passed by the Courts below are detailed, well reasoned and do not suffer from any illegality or infirmity, I do not see any reason to interfere therewith, more particularly, when no substantial question of law arises in this case. Therefore, the appeal stands dismissed.

19.12.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No