

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

RSA-2779-1994 (O&M)
Date of decision : 22.01.2020

Darshan Singh and another

...Appellants

Versus

Labh Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vinod K. Kataria, Advocate for the appellants.

Ms. Armaan Saggar, Advocate for respondent Nos.1, 2 and 3.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants have filed the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below, dismissing the suit filed for grant of mandatory injunction to remove the wall built in the alleged passage comprised in khasra No.441.

The plaintiffs filed the suit claiming that the land comprised in khasra No.441 was partitioned and was reserved for passage. The defendants have partially encroached upon the aforesaid passage by constructing a wall.

The defendants contested the suit and pleaded that the wall in question is in fact located in the land comprised in khasra No.425 and not in the passage comprised in khasra No.441/1.

Revenue official twice demarcated the land but could not arrive

at a definite conclusion that the defendants have encroached upon the land.

Thus, the trial Court dismissed the suit.

Learned First Appellate Court, on re-appreciation of evidence, also affirmed the findings while observing that no reliable evidence has been produced to prove the encroachment.

Learned counsel appearing for the appellants, although made sincere attempt, however, failed to draw attention of the Court to any substantive error in reading or misreading of evidence.

In view thereof, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

22.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No