

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

115

RSA-1410-2020(O&M)
Date of Decision : June 17, 2020

DAL CHAND

.....Appellant

VERSUS

BUDH RAM AND OTHERS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. S.K.Panwar, Advocate
for the appellant.

NIRMALJIT KAUR, J.

The Regular Second Appeal is filed against the order dated 5.2.2020 passed by Ld. District Judge, Palwal whereby appeal of the appellant-plaintiff has been dismissed, which was filed against the impugned judgment and decree dated 18.9.2017 passed by Ld. Civil Judge (Jr. Divn), Palwal, wherein the suit filed by the appellant/plaintiff has been dismissed.

While praying for setting aside the impugned order, learned counsel for the appellant contended that the appellant/plaintiff has fully proved his case to the effect that the respondents/defendants are in illegal possession over the suit property by producing demarcation report dated 12.6.2016 (PW5/A), which has been exhibited before the Ld. Trial Court and is per-se admissible as per Evidence Act, but the Ld. Courts below did not consider this demarcation report duly placed on file by the

appellant/plaintiff only with an excuse that the appellant/plaintiff did not examine the Local Commissioner before the Ld. Court who (Rajinder Kumar the then Kanugo, Palwal presently posted as Naib Tehsildar, Rewari) has demarcated the land in question in presence of the parties whereas the Ld. Court cannot ignore the factum of demarcation report dated 12.6.2016 which is a genuine document. Secondly, both the Ld. Courts below have gravely erred while not appreciating this material aspect of the case that during evidence, the DW1 Ram Parsad duly admitted that the demarcation report Ex.PW5/A bears his signature and hence the demarcation report dated 12.6.2016 is duly proved.

The argument of learned counsel for the appellant cannot be sustained. As per the findings recorded by the Courts below, the appellant-plaintiff, did not produce the person, who demarcated the suit land and prepared the report Ex.PW5/A. Rather, the defendants-respondents herein produced the demarcation report Ex.D9 in which Kishan Lal, who was assigned the duty of demarcation appeared and admitted the demarcation report Ex.D9. The defendants successfully proved the demarcation report Ex.D9 showing that the school had been constructed on the land purchased by Renuka through registered sale-deed. The copy of the sale-deed too has been produced on record.

The argument that PW Sandeep Kumar had produced Ex.PW5/A which is the demarcation report does not help as the said PW stated in his cross-examination that he was not in knowledge of the demarcation.

In view of the above, no law point is involved. No ground is made out to interfere in the well reasoned order passed by the Courts below.

Dismissed accordingly.

June 17, 2020
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No