

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-4803 of 2018 (O&M)
Date of decision: 20.01.2020

Parkash @ Jai Parkash & Ors.

... Appellants

versus

Pale Ram

... Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Abhimanyu Singh, Advocate,
for the appellants.

ARUN MONGA, J.

1. The appellants are aggrieved of the directions issued by the Courts below in a suit for permanent injunction filed by the plaintiff-respondent, restraining them from encroaching upon the street fully detailed and described in the head note of plaint, by raising any kind of construction and from closing the drains of the house of the plaintiff.

2. The appeal against the judgment of trial Court having been dismissed by the Appellate Court below, the defendants-appellants have filed the instant regular second appeal.

3. I have heard learned counsel for the appellants and have gone through the paper-book carefully.

4. It has come on record that though the case of the appellants was about existence of street in question towards northern side and not western side and it was claimed that under the guise of suit plaintiff wants to encroach upon their plot, but overwhelming evidence, oral as well as documentary, was produced by the plaintiff to prove the existence of the street in question towards western side of his house since 1997. On the contrary, the defendants

even failed to establish the existence of their plot, immediately adjoining the house of the plaintiff. It has come on record that there exist safety tank made by the plaintiff towards western side of his house and the drains of his house are also opening in that direction. The water also flows through the street in question. In the premise, the defendants were rightly restrained from encroaching upon the street in question by raising any kind of construction and from closing the water outlets of the house of the plaintiff.

5. There seems no perversity or illegality in the concurrent findings of facts returned by the Courts below by appreciation of evidence. No interference is called for to disturb the concurrent findings of facts recorded by the Courts below.

6. Furthermore, neither any question of law much less substantial question of law, which is *sine qua non* for entertaining second appeal before this Court is involved in present appeal, so as to exercise appellate jurisdiction under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

7. In view of my discussion above and the reasons recorded therein, this appeal is dismissed being bereft of any merit. Resultantly, both the impugned judgments and decrees passed by learned Courts below are upheld.

10. Pending applications stand disposed of.

11. No order as to costs.

(ARUN MONGA)
JUDGE

January 20, 2020

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Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No