

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

**RSA-5380-2019 (O&M)
Date of Decision: 11.11.2020**

Pappu @ Panna Lal and others	Versus	...Appellants
Ghan Shyam		...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. J.P.Sharma, Advocate,
for the appellants.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

For convenience, parties herein are addressed as per recitals before the trial Court.

2. Having suffered concurrent adverse findings by the two Courts below, the defendants are in second appeal before this Court assailing the trial Court judgment and decree dated 19.11.2015, as upheld by the learned First Appellate Court vide its judgment and decree dated 19.09.2019.

3. Briefly stated, facts as noticed by Courts below are that plaintiff Ghanshyam instituted a suit for permanent injunction on the averments that his father had purchased the house in question on 26.06.1961. After the death of his father, he had been in continuous possession of said house. The defendants had been interfering in his area without any right, title or interest.

The defendants pleaded that parties to the suit are collaterals of same ancestor Sh. Kaushal Ram son of Phoosa Ram. A family settlement had taken place on 12.04.1994. As per mutual agreement, plaintiff became owner in possession of green coloured portion whereas defendants became

owner in possession of blue coloured portion. Thereafter, the plaintiff and defendants raised construction over their respective shares of land/plot. Defendants further pleaded that the plaintiff is unnecessarily of quarrel some nature. With an intention to dispossess defendants from their portion of property, plaintiff had demolished his wall marked as EF in the site plan and tried to erect a gate.

4. Based on the rival pleadings, following issues were framed:

- 1. Whether the plaintiff is entitled to a decree of permanent injunction restraining the defendants from interfering in his peaceful possession over the sut property as prayed for? OPP*
- 2. Whether the suit of the plaintiff is not maintainable in the present form? OPD*
- 3. Whether the plaintiff has concealed true and material facts from the Court? OPD*
- 4. Relief.*

5. The parties to the suit adduced their oral as well as documentary evidence in support of their pleadings and to discharge their respective onus as per the issues, *ibid*.

6. On appraisal of evidence vis-a-vis pleadings, trial Court decided issue No.1 in favour of the plaintiff and issues No.2 and 3 against the defendants.

7. First Appellate Court dismissed the appeal. Hence Regular Second Appeal before this court.

8. I have heard the learned counsel and perused the judgments of both the Courts below. To my mind, judgments under challenge have been

rendered after due and correct appreciation of evidence adduced by the respective parties.

9. There seems no perversity or illegality in the concurrent findings of facts returned by the Courts below. No interference is thus called for to disturb the said concurrent findings. No fresh ground worthy of interference in the appellate jurisdiction of this Court is made out.

10. Furthermore, no question of law, much less substantial, a sine qua non for entertaining regular second appeal, is involved herein, so as to exercise appellate jurisdiction under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

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

12. Pending application/s, if any, shall also stand disposed of.

13. No order as to costs.

NOVEMBER 11, 2020
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable

Yes/No
Yes/No