

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

RSA-931-2021 (O&M)

Date of decision: 25.10.2021

Amarjit

....Appellant

Versus

Nasib Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Rakesh Kumar Sharma, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

This appeal has been filed by the plaintiff against the concurrent finding of fact arrived at by the courts below, while dismissing his suit for grant of decree of mandatory injunction to remove the wall in question. The plaintiff claims that he is owner of a house and his father previously filed a civil suit, which was decided by the way of compromise on 16.10.1980. He claims that the defendants have recently constructed a wall from point A to B. The defendants contested the suit with the assertion that the plaintiff and his uncle (Mangat Ram) are owners of a house. In order to provide direct passage to the plaintiff, a compromise was arrived at and the plaintiff was provided a passage from the street. The wall was constructed before 1980 and the plaintiff is acting mischievously and he wants to get the wall removed. Both the courts, after examining the record, found out that the previous suit filed by the plaintiff's father was dismissed as withdrawn on the statement of the parties to the effect that the plaintiff's father is entitled to remove the wall within 15 days. The defendants in their statement before the Court, had claimed ownership over the property in dispute and the court left the

question of title open for adjudication.

Both the courts have also found that the plaintiff failed to prove that the wall in question has been recently constructed by the defendants. The plaintiff admittedly has a passage to the street which is 4½ feet in width. He has also failed to lead evidence to prove any right, title or interest with respect to the land underneath the wall in question.

Learned counsel representing the appellant, although, made a sincere attempt, however, failed to draw the attention of the Court to any substantive error or material irregularity in the findings of the fact arrived at by the courts below. Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

25.10.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE