

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

**RSA-2088-2022 (O&M)  
Date of Decision: 24.01.2023**

**SURINDER KAUR**

**...Appellant**

**V/S**

**BALWINDER SINGH AND OTHERS**

**....Respondents**

**CORAM: HON'BLE MR. JUSTICE B.S. WALIA**

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Present: Mr. Arvinder Arora, Advocate  
for the appellant.

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**B.S. WALIA, J. (ORAL)**

Challenge in the instant regular second appeal is to judgement and decree dated 18.04.2022 passed by the learned District Judge, Ambala dismissing Civil Appeal No. 49-2022 titled as 'Surinder Kaur Vs. Balwinder Singh & others' against the judgement and decree dated 17.03.2022 passed by the learned Additional Civil Judge, Junior Division, Naraingarh in Civil Suit No. 535 of 2015, whereby learned trial Court had dismissed the suit filed by the appellant-plaintiff, in which she had sought a decree for mandatory injunction directing the respondents-defendants to remove the construction of boundary wall marked by letters A,B,C and D shown in red colour in the site plan attached which had been constructed illegally and forcibly by the respondents-defendants on the ground of common passage being used by the appellant-plaintiff and the respondents-defendants situated

at Village Laha, Tehsil Naraingarh, District Ambala and further had sought decree of permanent injunction restraining the respondents-defendants from interfering in the peaceful possession of the appellant-plaintiff through themselves, agents, anybody else etc.

Learned counsel for the appellant contends that the civil suit filed by the appellant-plaintiff was dismissed by the learned trial Court vide judgment and decree dated 17.03.2022 on the ground that the same was hit by the principal of res judicata in view of the vendor-Harbhajan Singh from whom the appellant-plaintiff had purchased the suit land having filed Civil Suit No. 71 of 2002 titled as ***Harbhajan Singh Vs. Ramesh Chand*** decided on 31.03.2010 which although had been decreed in favour of the vendor of the appellant-plaintiff yet the said judgement and decree was reversed by the learned Additional District Judge, Ambala in Civil Appeal No. 58 of 2011 decided on 15.06.2012 by noticing that the appellant-plaintiff had purchased the suit property from her vendor-Harbhajan Singh during the pendency of Civil Suit No. 71 of 2002 in the year 31.04.2008 vide sale deed No. 243 dated 30.04.2008 registered in the office of Sub Registrar, Naraingarh and that despite being aware of the litigation, she neither moved an application for impleading herself as a party either in the civil suit or in the appeal filed by the respondents-defendants Ramesh Chand, nor challenged the decision of the learned Additional District Judge, Ambala dated 15.06.2012 in Civil Appeal No. 58 of 2011.

Learned counsel for the appellant after arguing for some time and on instructions from the appellant states that he does not press the instant appeal and may be permitted to withdraw the same with liberty to take out proceedings in accordance with law to challenge the decision

appropriate proceedings in accordance with law.

In view of the statements of learned counsel for the appellant  
the instant appeal is dismissed as withdrawn with the liberty as prayed for.

**(B.S. Walia)**  
**Judge**

24.01.2023  
pry

*Whether speaking/reasoned* : Yes/No

*Whether reportable* : Yes/No