

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

RSA No.4107 of 2012 (O&M)

Date of Order:18.12.2023

Siri Ram**..Appellant****Versus****Dara Ram and another****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL****Present: Mr. A.K.Khunger, Advocate, for the appellant.****Mr. M.K.Sajjan, Advocate, for the respondents.****ANIL KSHETARPAL, J**

1. Although, the First Appellate Court has slightly modified the judgment and decree passed by the trial court, however, substantively there is a concurrent finding of fact arrived at by the courts below while deciding the plaintiff's suit for grant of permanent injunction restraining the defendants from continuous use of a water course.

2. The plaintiff has constructed a residential house in the agricultural fields. He filed a suit for a decree for permanent injunction restraining the defendants from continuing to use the water channel which abuts his residential house. He claims that on account of seepage from the water channel his residential house has suffered certain damages.

3. On the other hand, the defendants while filing the counter claim prayed for an injunction restraining the plaintiff from interfering in his possession. The trial court dismissed the plaintiff's suit, whereas the counter claim filed by the defendants was decreed. The First Appellate Court has partly accepted the appeal filed by the plaintiff and decreed the suit filed by him to the extent of restraining the defendants from interfering in his

possession.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

5. The learned counsel representing the appellant contends that the direction should be issued to the respondents to shift his water course as the appellant's residential house has developed cracks. He submits that it's a private water channel of the defendants and therefore, they should be restrained from using the same.

6. On the other hand, the learned counsel representing the respondents submits that it is for the plaintiff to take steps to stop seepage of water by using various methods for preventing the water from seeping in.

7. This court has considered the submissions of the learned counsel representing the parties.

8. The learned counsel representing the appellant does not dispute that the plaintiff has constructed the residential house in his agricultural fields. In such circumstances, it is for the plaintiff to take steps to prevent the seepage of water by applying various methods available in the market from preventing seepage of water.

9. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

10. Dismissed.

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

December 18, 2023

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Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO

(ANIL KSHETARPAL)

JUDGE