

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

RSA-1552-1993
Decided on :02.04.2024

Mahabir Parshad and another

Versus

Khub Ram and others

... Appellants

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Ram Avtar Sheoran, Advocate
for the appellants.

Mr. Sanjay Vij, Advocate
for respondent Nos. 1 and 2.

Mr. M. K. Mittal, Advocate
for respondent Nos. 3 to 5.

VIKAS BAHL, J.(ORAL)

1. This is plaintiffs' appeal.
2. The plaintiff had filed suit for permanent injunction against 5 defendants seeking a decree for mandatory injunction to the effect that the defendants be directed to close the door opened by them in the wall as shown mark CD in red colour in the site plan of the property in dispute at their own expenses and the defendants be further restrained from interfering in the peaceful possession of the plaintiffs over the property in dispute situated at Narnaul Chowk, Rewari, as fully detailed in para No. 1 of the plaint.

3. The trial Court had decreed the suit in favour of the plaintiffs and against the defendants with a direction to the defendants to close the door opened by them in the wall as shown mark CD in red colour in the site plan of the property in dispute at their own expenses and the defendants were further restrained by way of permanent injunction from interfering in the peaceful possession of the plaintiffs over the property in dispute.

4. Defendants Khub Ram and Sheoraj filed an appeal against the said judgment and decree and the Additional District and Sessions Judge, Rewari vide judgment dated 18.12.1992, partly accepted the appeal in the following terms:-

“In view of the above discussion, the appeal is partly accepted ordering that the defendants shall shift the gate from point CD if it falls within 99 feet from point ‘Y’ shown in the site plan and it can be opened at any place beyond 99 feet from point ‘Y’. No order as to costs. Decree sheet be prepared accordingly and file be consigned to the record-room.

*Announced.
18.12.92.*

*Sd/-
Addl Distt. Judge, Rewari.
18.12.92.”*

5. It is against the said judgment of the appellate Court that the present Regular Second Appeal has been filed by the plaintiffs. The matter was admitted and there is no stay operating in favour of the plaintiffs.

6. As per report of the registry, Khub Ram and Sheoraj, who had filed the appeal before the Additional District and Sessions Judge, Rewari and are respondent Nos. 1 and 2 before this Court, have died. Even both the appellants have been stated to have died. Learned counsel for the appellants, on instructions from the son of appellant No. 2, who is present in person and has been recognized by the counsel for the appellants, has submitted that at this stage, there is no dispute between the parties and has prayed that the present appeal be disposed of at this stage but liberty be granted to the LRs of the appellants to revive the present appeal, in case, any dispute which has been adjudicated vide the impugned judgment with respect to the property in question arises.

7. In view of the above facts and circumstances, present Regular Second Appeal is dismissed as not pressed at this stage with the liberty aforesaid.

(VIKAS BAHL)
JUDGE

02.04.2024
Mehak

<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>