



## IN THE HIGH COURT OF PUNJAB &amp; HARYANA AT CHANDIGARH

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RSA-1158-2021 (O&amp;M)

Date of Decision: 18.03.2025

SURJIT KAUR

.....Appellant

Vs

ASHOK KUMAR

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Pradeep Sharma, Advocate for  
Mr. Kirat Pal Dhaliwal, Advocate  
the appellants.

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**DEEPAK GUPTA, J.**

Suit for permanent injunction filed by plaintiff-Surjit Kaur (*appellant herein*) was dismissed by the trial Court on 26.02.2018. Appeal filed by her against the said trial Court judgment was dismissed by the First Appellate Court on 17.05.2019. Against this concurrent finding, she has approached this Court by way of the present Regular Second Appeal.

2. Dispute pertains to a wall existing between the respective houses of the two parties. Plaintiff claimed the said wall to be exclusively owned by her and sought to restrain the defendant from making any construction over the same to take support of the said wall. The stand of the defendant was that width of wall was 13 inch and that the wall was common.

3. Necessary issues were framed and after taking evidence, trial Court found that plaintiff had failed to prove exclusive ownership of wall in dispute. As such, suit was dismissed. Appellate Court upheld the findings.

4. Assailing the aforesaid findings, it is contended by learned counsel for the appellant that evidence on record has not been properly appreciated.

5. However, it is conceded by learned counsel for the appellant that appellant-plaintiff could not produce any cogent evidence to prove the exclusive ownership of the disputed wall.



6. It has been observed by the First Appellate Court that plaintiff had purchased the property in the year 2012 from the previous owner. However, said previous owner was not examined to prove that by virtue of sale deed dated 05.07.2012, exclusive rights in the wall were sold to the plaintiff. Not only this, Appellate Court found from the photographs of the wall in dispute that thickness of the same was 13 inches and that there were depressed alcoves in the wall, showing that defendant had also been using the said common wall since long and that plaintiff had never raised objection to such usage of the disputed wall by the defendant. So much so, no witness from the locality was examined by the plaintiff to prove that disputed wall was exclusively owned by her.

7. In the aforesaid facts and circumstances, this Court does not find any reason to disturb the concurrent findings of facts as recorded by the Courts below, which are based upon proper appreciation of evidence. Finding no scope to interfere in the absence of any illegality or perversity in the findings, the present appeal is hereby dismissed being devoid of any merit.

**18.03.2025**

*Pry*

Whether speaking/reasoned : Yes  
Whether reportable : No

**(DEEPAK GUPTA)  
JUDGE**