

CIS No. CMA/6/2017

Dharampal Vs. Chairman

Present: Sh. R.K. Tyagi, Advocate for appellant.
Sh. Pawan Kumar, Advocate for respondents.

Order:

Present appeal is filed against impugned order dated 13.01.2017 passed by Dr. Kavita Kamboj, Ld. ACJ(SD), Kharkhoda vide which application under Order 39 Rules 1 & 2 CPC was dismissed.

Heard Ld. Counsels for the parties and have also gone through the LCR. As per the contention of appellant/plaintiff, during the pendency of the suit defendants have demolished four walls of the suit property and included the said plot in the park and raised boundary wall. However, appellant/plaintiff has not filed any photographs or documents to show any kind of demolition by respondents/defendants during the pendency of the suit either before Ld. Ld. ACJ(SD), Kharkhoda or before this court. The fact regarding ownership and possession has to be established by appellant/plaintiff by leading his evidence and at this stage, nothing can be inferred regarding previous factual position.

Accordingly, the present appeal is hereby disposed of with clear direction to respondents/defendants that any construction or development made over the park during the pendency of the suit before Ld. ACJ(SD), Kharkhoda will be made by them at their own cost, risk and consequences. Copy of this order along with LCR be sent to the concerned court and present appeal be consigned to record room.

(Rajesh Malhotra)
ADJ, Sonapat
28.05.2019 (HR0059)