



3. The appellant is the plaintiff whereas the respondents are the defendants in the suit out of which this appeal arises.

4. The appellant is the tenant of the respondents in relation to the suit house in question and is in its occupation. The dispute arose between the parties in relation to one wall of the suit house, which led to filing of the suit by the appellant against the respondents seeking permanent injunction restraining them from interfering in his enjoyment of the wall in question. The respondents contested the suit.

5. By judgment dated 23.04.1997, the Trial Court decreed the appellant's suit and issued permanent injunction against the respondents. The respondents felt aggrieved and filed first appeal before the first Appellate Court.

6. By judgment dated 15.09.2003, the first Appellate Court allowed the respondents' appeal and, in consequence thereof, set aside the judgment of the Trial Court and dismissed the appellant's

suit. The appellant felt aggrieved filed second appeal before the High Court of Rajasthan at Jaipur. By impugned judgment, the Single Judge dismissed the appellant's second appeal, which has given rise to filing of the present appeal by way of special leave before this Court by the plaintiff.

7. The short question, which arises for consideration in this appeal, is whether the High Court was justified in affirming the judgment of the first Appellate Court, which resulted in dismissal of the appellant's suit for permanent injunction.

8. Having heard the learned counsel for the parties and on perusal of the record of the case, we are constrained to dismiss the appeal for more than one reason mentioned hereinbelow.

9. First, when the two Courts below (first Appellate Court and the High Court) have recorded a concurrent finding of fact against the appellant then such finding is binding on this Court while hearing the appeal under Article 136 of the Constitution; Second, finding impugned is based on

proper appreciation of evidence and hence it does not involve any perversity so as to call for any interference; Third, even otherwise the question sought to be raised in the suit and which is now carried to this Court is essentially a question of fact and the same having been gone into by the two Courts below and the finding recorded against the appellant, this Court is not inclined to upset such finding in this appeal.

10. Learned counsel for the respondents (defendants), however, stated that the respondents, during pendency of this litigation, filed eviction suit against the appellant in relation to the tenanted premises and the same stood decreed against the appellant. It is also stated that the matter is now pending in appeal at the instance of the appellant.

11. Be that as it may, so far as this case is concerned, we find no merit in this appeal for the three reasons stated above.

12. In this view of the matter, the appeal fails and is accordingly dismissed.

13. We, however, direct the Appellate Court, who is seized of the appeal filed by the appellant against the respondents, to decide the same within 6 months strictly in accordance with law.

.....J.  
[ABHAY MANOHAR SAPRE]

.....J.  
[S. ABDUL NAZEER]

New Delhi;  
July 18, 2018

ITEM NO.107

COURT NO.11

SECTION XV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).3031/2009

UMRAO SINGH MEHTA

Appellant(s)

VERSUS

RAM SWAROOP & ANR.

Respondent(s)

Date : 18-07-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE  
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Appellant(s)

Ms.Pratibha Jain, AOR  
Mr.Puneet Jain, Adv.  
Ms.Priyal Jain, Adv.

For Respondent(s)

Mr.Sanjeev Malhotra, AOR  
Mr.A.P.Dhamija, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

Pending applications, if any, stand disposed of.

(Ashok Raj Singh)  
Court Master

(Chander Bala)  
Court Master

(Signed Order is placed in the file)