

(2011) 10 SHI CK 0030

In the High Court Of Himachal Pradesh

Case No : Regular Second Appeal No. 607 of 2000 a/w Regular Second Appeal No. 83 of 2001

Smt. Paro

APPELLANT

Vs

Smt. Krishna and others
 Sh. Ajay Kumar Sood and
anr Vs Smt. Paro Devi

RESPONDENT

Date of Decision : 31-10-2011

Acts Referred:

Citation : (2011) 10 SHI CK 0030

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—Both these appeals are being disposed of by a common judgment since they are between the same parties and involve the same property.

2. The parties in question are neighbours. Smt. Paro Devi (hereinafter referred to as the original plaintiff) filed a Civil Suit No. 40/1 of 1996 against S/Shri Ajay Kumar Sood, Rakesh Kumar Sood, Rajesh Kumar Sood, their mother Smt. Krishna and their contractor Shri Narpatt praying that a decree for permanent prohibitory and mandatory injunction be passed restraining the defendants from interfering in her land comprised in Khata/Khatauni No. 72/95, Khasra No. 270, measuring 0-4 biswas. According to Paro Devi, she was the owner-in-possession of the suit land and the defendants were owners of the adjoining land. The defendants had started construction and digging work in such a manner as to endanger and encroach upon her land.

3. The defendants contested the suit and stated that they were raising the construction only in their own land comprised in Khasra Nos. 268 and 269. The suit of the plaintiff Paro Devi was dismissed by the learned trial Court. The appeal filed by her was also dismissed.

4. Ajay Kumar Sood and Rajesh Kumar Sood, who were the defendants in the earlier suit filed by Paro Devi, filed another Suit in the year 1997 praying that Paro Devi be restrained from encroaching upon or raising any construction over their land. This suit was contested by Paro Devi and Paro Devi was restrained from raising any construction or encroaching upon the land comprised in Khasra Nos. 268 and 269. The appeal filed by Paro Devi was allowed hence the two second appeals.

5. It is not disputed that both the sides have not only raised constructions but the constructions are complete. The constructions have been raised over their respective land and the parties have not encroached upon land of the other side. It appears that the main disputed was with regard to some retaining wall and Paro Devi whose land is at a lower level apprehended that by raising construction, Ajay Kumar Sood and others would cause damage to her land. Since now the construction is complete and both the parties have raised construction only over their own land nothing survives in the suits.

6. No question of law much less a substantial question of law arises in these appeals. Therefore, both the appeals are dismissed. No costs.