

IN THE COURT OF DISTRICT JUDGE, MOHALI

(Name of Appellant), (S/o, D/o, W/o), (Age), (Residence)

.....Appellant/Plaintiff.

VERSUS

(Name of Respondent), (S/o, D/o, W/o), (Age), (Residence)

...Respondents/Defendants

**Appeal against Judgment and Decree dated
_____passed by Shri _____, Civil
Judge (Junior Division), in Civil Suit No. _____.**

CLAIM IN APPEAL

**For acceptance of the appeal and setting aside judgment
and decree dated _____and for decreeing the suit of
the plaintiff/appellant.**

Grounds of Appeal

The appellant respectfully submits as under: -

1. That the appeal is being filed within the period of limitation after deducting the days spent in obtaining the certified copy of the impugned judgment & decree dated_____. Certified copy of the impugned judgment and decree dated _____ attached herewith for kind perusal of the Hon'ble Court.
2. That the impugned Judgment and Decree passed by the Ld. Lower Court is patently illegal, erroneous in law, against facts and evidence on record and as such the same is liable to be set aside.
3. That the Brief facts of the case which lead the Plaintiff to file the appeal are that the Plaintiff/ appellant had filed the instant Suit for Permanent Injunction in _____. Later on, the suit of the Plaintiff was amended and one specific Relief of Mandatory injunction was also claimed by the plaintiff/ Appellant as the Defendants had raised the boundary walls and block the passage 14 feet wide on the Southern Side of the shop of the Plaintiff. The title of the Suit is reproduced as under for kind reference of this Hon'ble Court:-

“ _____ ”

4. That the Ld. Trial Court while deciding the issues framed has not decided the same one by one and adopted the pathetic approach i.e. pick and choose policy and decided all the issues in favor of the Defendant ignoring and overlooking the facts and evidence on record.
5. That the Ld. Judge also ignored on record the sale deeds dated _____, Exhibited on file in which the passage i.e. _____ has been shown specifically in all the sale deeds, which categorically proves the stand of the plaintiff.

It is very much important to mention here that the Ld. Trial court overlooked and ignored that the sale deed dated _____ is made by one of the defendants in which the passage _____ wide has specifically been mentioned.

6. That the Ld. Judge also ignored the admission on the part of defendants that the suit property is the public Street and the pleadings concerning the admission part have been reproduced in the judgment of the Trial Court in para no. ____.

7. That the Ld. Trial Court arbitrarily and illegally rendered the findings regarding Ex ____, the site Plan attached with the plaint by the plaintiff as well as proved by the plaintiff, in which the dimension has been clearly shown as East: _____, West: _____, North: _____, South: _____. On the other hand, the Trial court interpreted and given the wrong finding that there is the road towards all sides of the property.

It is important to bring in the knowledge of the Hon'ble Court that the site plan Ex ___ which was approved by the MC has also been ignored and overlooked and observed wrongly that the site plans Ex _____ and Ex _____P2 are contradictory though both the site plan proves the specific stand of the plaintiff regarding the existence of passage _____ in the Southern side of the shop of the Plaintiff, which has been blocked by the Defendants.

8. That the Id. Trial Court adopted the pick and choose policy and ignored the admissions in cross-examination of the Defendant's witnesses and tried to give the new shape to the case of the defendant. The defendant No. 1 admitted in his cross-examination that there exists passage in all the sale deeds as well as in the site

plans, which have even not been discussed and no finding regarding those admissions has come on record.

9. That the Ld. Civil Judge has misconstrued facts and law and ignored the submissions of Plaintiff/ Appellant and decided all the issues against the Plaintiff.
10. That the Ld. Trial Court has not applied its judicious mind while passing the impugned judgment and decree under appeal.
11. That the Ld. Lower Court failed to frame and decide the issues according to law, which resulted in the miscarriage of justice to the appellant/plaintiff.
12. That the judgment and decree under appeal is based on surmises and conjectures and the same is liable to be set aside.
13. That the judgment and decree under appeal is patently illegal, erroneous in law, against facts and evidence on record and is liable to be set aside.
14. That the ld. Lower court has committed various other illegalities and irregularities while passing the impugned Judgment & Decree.

It is, therefore, prayed that the appeal may kindly be accepted and the judgment & decree dated _____ of the Ld. Lower court be set aside and the suit of the appellant/plaintiff be decreed;

And/ Or

Any other appropriate order may kindly be passed in the interest of Justice.

Place:

Submitted by,

Date:

Plaintiff/ applicant

Through Counsel

IN THE COURT OF DISTRICT JUDGE, MOHALI

(Name of Appellant), (S/o, D/o, W/o), (Age), (Residence)

.....Appellant/Plaintiff.

VERSUS

(Name of Respondent), (S/o, D/o, W/o), (Age), (Residence)

...Respondents/Defendants

AFFIDAVIT of

I, the above named deponent do hereby solemnly affirm and declare
on oath as under: -

1. That the accompanying Appeal is being filed by the deponent and
the same may be read as part and parcel of the present Affidavit.
2. That the appeal has been filed on behest of deponent on the basis of
facts and circumstances and documents on record.

Place:

Date:

Deponent

VERIFICATION:

Verified that the contents of my Affidavit are true and correct and
nothing false has been stated or concealed therein.

Place:

Date:

Deponent

IN THE COURT OF DISTRICT JUDGE, MOHALI

(Name of Appellant), (S/o, D/o, W/o), (Age), (Residence)

.....Appellant/Plaintiff.

VERSUS

(Name of Respondent), (S/o, D/o, W/o), (Age), (Residence)

...Respondents/Defendants

In the matter of appeal against Judgment and Decree dated _____ passed by Sh. _____, Civil Judge (Junior Division), _____.

An Application under order 39 rule 1 and 2 read with section 151 CPC for the grant of an ad-interim injunction restraining the respondents, its employees, servants, agents from raising further construction over the passage _____ on the Southern side of the shop of the plaintiff/ Appellant till the outcome of the final decision.

Most Respectfully Showeth:

The appellant respectfully submits as under: -

1. That the above-noted appeal is being filed in this Hon'ble court which is most likely to be accepted as per grounds of appeal and the same may be read as part of this application.

2. That the impugned Judgment and Decree passed by the Ld. Lower Court is patently illegal, erroneous in law, against facts and evidence on record and as such the same is liable to be set aside.
3. That the respondents are trying to further raise construction illegally on the passage _____ towards the Southern Side of the shop of the Plaintiff. In case the respondents succeed in their evil motives, then the very purpose of filing the appeal shall become infructuous and the appellant shall suffer an irreparable loss and injury, which cannot be compensated in any manner.
4. That a good prima facie case and balance of convenience also lies in favor of the appellant.

It is, therefore, prayed that the application may kindly be accepted and an ad-interim injunction restraining the respondents, its employees, servants, agents from further raising of construction on the passage _____ wide on the southern side of the shop of the Plaintiff till the final decision of the appeal, may kindly be granted in favor of the appellant and against the respondents.

Place:

Plaintiff/ applicant

Date:

Through Counsel

IN THE COURT OF DISTRICT JUDGE, MOHALI

(Name of Appellant), (S/o, D/o, W/o), (Age), (Residence)

.....Appellant/Plaintiff.

VERSUS

(Name of Respondent), (S/o, D/o, W/o), (Age), (Residence)

...Respondents/Defendants

AFFIDAVIT of

I, the above named deponent do hereby solemnly affirm and declare on oath as under: -

1. That the impugned Judgment and Decree passed by the Ld. Lower Court is patently illegal, erroneous in law, against facts and evidence on record and as such the same is liable to be set aside.
2. That the facts mentioned in the accompanying application have been written at my behest and the same may be read part and parcel of this Affidavit.

Place:

Date:

DEPONENT

VERIFICATION:

Verified that the contents of my above affidavit are true and correct and nothing false has been stated and concealed therein.

Place:

Date:

DEPONENT