



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

133

RSA-3418-2023 (O&M)

Date of decision: 08.07.2026

Kuldeep Singh

....Appellant

Versus

Sarabjit Singh and another

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Vijay Rana, Advocate, for the appellant.

HARSH BUNGER J. (ORAL)

CM-12206-C-2023

Application (CM-12206-C-2023) is filed seeking condonation of delay of 33 days in filing the regular second appeal (RSA-3418-2023).

Keeping in view the reasons mentioned in the instant application (CM-12206-C-2023), the same is allowed and delay of 33 days in filing the regular second appeal (RSA-3418-2023) is condoned.

The instant application, i.e. CM-12206-C-2023, is disposed of in the aforesaid terms.

Main case (RSA-3418-2023)

1. This is the appellant-plaintiff's second appeal challenging judgment and decree dated 30.01.2018 passed by the learned Civil Judge (Junior Division), Kharar, whereby the suit filed by appellant-plaintiff for permanent injunction restraining the respondents-defendants from raising any obstruction/construction in the passage marked as ABCD (as shown in the site plan attached with the plaint) has been dismissed.



1.1. A further challenge has been laid to the judgment and decree dated 17.04.2023 passed by the learned Additional District Judge, S.A.S. Nagar (Mohali), whereby the appeal preferred by the appellant-plaintiff against the aforesaid judgment and decree dated 30.01.2018 passed by the learned trial Court, has also been dismissed.

2. In the suit, the pleaded case of the appellant-plaintiff was that the house of the respondents-defendants marked as ADEF was previously owned by one Smt. Amar Kaur wife of Sita Singh and after her death, same is possessed by the respondents-defendants. It was averred that towards the Western side of the house, there is a passage which is 5 feet in width and the same is being used by the appellant-plaintiff and the public at large for their ingress and egress to the main street GH. It is also averred that the aforesaid street was paved/constructed by the Gram Panchayat of the village. During the life time of Smt. Amar Kaur, she had agreed in the presence of Panchayat in the year 1995 that the street in dispute is only for public purposes and she will not encroach upon the same. However later, the respondents-defendants started causing obstruction to the appellant-plaintiff by claiming the street to be a part of their property and not a passage, whereupon, the suit for permanent injunction was filed.

3. Upon issuance of notice in the suit, the respondents-defendants appeared in the suit and contested the same by filing their written statement, wherein the existence of any passage on the Eastern side of the house of the respondents-defendants was denied. Even the site plan relied upon by the appellant-plaintiff was disputed. Another plea was taken that earlier the



appellant-plaintiff alongwith one Smt. Puro daughter of Daultia filed a Civil Suit No.730 of 18.05.1994 in the Court of learned Sub-Judge 1st Class, Fatehgarh Sahib against Smt. Amar Kaur for permanent injunction restraining her from closing/ blocking the doors and *rasta* ABCD and also from making any sort of construction, however, the said suit was dismissed as withdrawn by the present appellant-plaintiff and now again second suit had filed. Accordingly, prayer for dismissal of the suit was made by the respondent-defendants.

4. The appellant-plaintiff filed replication to the written statement filed by the respondents-defendants.

5. From the pleadings of the parties, the learned trial Court framed the following issues:-

- “1. *Whether the plaintiff is entitled for the relief of permanent injunction as prayed for? OPP*
2. *Whether the suit of the plaintiff is not maintainable? OPD*
3. *Whether the plaintiff has no locus standi to file the present suit? OPD*
4. *Whether the plaintiff has not come to the court with clean hands and has concealed the material facts from the court? OPD*
5. *Relief.”*

6. The parties to the suit led their respective evidence (oral as well as documentary) on the aforesaid issues.

7. The learned trial Court after considering the facts, pleadings as well as the evidence available on record, dismissed the suit filed by the appellant-plaintiff vide judgment and decree dated 30.01.2018.



8. Feeling aggrieved against the trial Court's judgment and decree dated 30.01.2018, the appellant-plaintiff preferred an appeal before the learned Additional District Judge, S.A.S. Nagar (Mohali), which has also been dismissed vide judgment and decree 17.04.2023.

9. In the aforementioned facts and circumstances, the present regular second appeal has been filed before this Court.

10. I have heard the learned counsel for the appellant-plaintiff and perused the paper-book with his able assistance.

11. Learned First Appellate Court while dismissing the appeal of the present appellant-plaintiff, held as under:-

“13. The learned trial Court has rightly observed that plaintiff has to prove his case and to stand on his own legs. The plaintiff has relied upon compromise dated 25.03.2012 but same has not been proved on record as per law. The alleged witness Avtar Singh did not appear for cross-examination. Simply because the document was taken under RTI. It does not prove its validity. Admittedly the suit pending between the parties at Fatehgarh Sahib was also withdrawn and this fact was not brought on record. There is no documentary evidence to prove that street in dispute was ever brick paved by the gram panchayat. The plaintiff has thus failed to prove the existence of street. The learned trial Court after taking into consideration all the facts and evidence on the file and has rightly dismissed the suit of the plaintiff. There is no illegality in the judgment under appeal and findings on all the issues given by the learned trial Court are affirmed in this appeal.”

12. Before this Court, learned counsel for the appellant-plaintiff could not dispute the fact that the entire case set up by the appellant-plaintiff



was based upon compromise dated 25.03.2012, however, the same was not proved on record as per law. Further, the witness to the said compromise, namely, Shri Avtar Singh, although appeared as a witness, however, he did not present himself for cross-examination and accordingly, his deposition was not read in evidence. It has also come on record that there is no documentary evidence available on record that the street in question was ever brick paved by the Gram Panchayat. Accordingly, it has been held by the learned Courts below that the appellant-plaintiff has failed to prove the existence of the street in question.

13. Having considered the matter in its entirety, once the appellant-plaintiff has failed to prove his pleaded case before the learned Courts below, I see no compelling reason which may warrant interference by this Court, especially when it has not been shown that the findings returned by the Courts below are either based upon misreading or mis-appreciation of evidence on record. No question of law much less, a substantial question of law arises for adjudication in this regular second appeal.

14. The instant regular second appeal is devoid of any merit and the same is accordingly, dismissed.

15. All the pending application(s), if any, shall also stand closed.

08.07.2026
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(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No