

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

RSA No. 4833 of 2011 (O&M)

Date of decision : 20.8.2015

Ram Kumar and others

.. Appellants

versus

Nathu Ram and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Sandeep Punchhi, Advocate, for the appellants.

Rajesh Bindal, J.

The plaintiffs have impugned the judgments and decrees of both the Courts below whereby the suit filed by them for declaration and permanent injunction was dismissed.

The appellants/plaintiffs are seeking declaration against the respondents/defendants to the effect that no path in 1 kanal 3 marlas of land of khasra no. 273 towards west of Sq. No. 60 situated in the area of village Ganja Rupana, Tehsil and District Sirsa, exists as for the last more than 30 years the land under the aforesaid path has been coming under their possession. Before that it was under the possession of Atma Ram son of Hem Raj. They have also sought permanent injunction restraining the defendants from passing through the aforesaid disputed land. As the defendants were adamant to use the path forcibly and illegally, the plaintiffs filed the suit, which was dismissed. Even first appeal filed by them was also dismissed.

In evidence, the plaintiffs examined PW2 Datta Ram twice. On 6.11.2003, he stated that there is no passage at the spot as shown in the Akshijra, Ex.P1, with letters B, C and D. He was again examined on 13.10.2004, and deposed that a passage from letters C & D and water-course from letters A and B, as shown in Ex. P1, are in existence. He has also admitted that Akshijra has been prepared by the Bhagwan Dass Patwari. He also deposed that he never stated on 6.11.2003 that there was no passage in

running condition from letters C & D. Though, as stated by learned counsel for the appellants that his testimony is to be disbelieved, yet the Akshijra, Ex. P1, cannot be doubted. PW2 Data Ram, who is also the Patwari of the village, has stated that path in dispute is under use at the spot. He is the only independent witness and custodian of the revenue record. He has not supported the claim of the appellants.

Learned counsel for the appellants has not refer to any evidence produced by the appellants, which has either been misread or not considered on the issue. Hence, the findings to that effect cannot be said to be perverse.

For the reasons mentioned above, I do not find any merit in the present appeal. No question of law much less a substantial question of law arises in the appeal. The same is accordingly dismissed. Consequently, the accompanying applications are also dismissed.

20.8.2015

vs

(Rajesh Bindal)
Judge