

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

**Regular Second Appeal No.724 of 2015 (O&M)
Date of Decision: February 26, 2015.**

Kali Ram and others

.....APPELLANT(s).

VERSUS

Dharambir and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jasbir Mor, Advocate
for the appellant (s).

SURINDER GUPTA, J.(Oral)

Heard.

Plaintiffs Dharambir, Ramesh and Ram Kishan sons of Raj Mal
filed civil suit claiming the relief of mandatory injunction as follows:-

“Suit for mandatory injunction directing the defendants not to interfere in the ingress and outgress of plaintiffs and also not to create any type of hindrance in installing doors and window in northern side of wall of Murba No.201/1 in the street (public street) no.197 of their plot No.201 comprised in khewat No.2, khata No.3 of 9/20th share of total land 1 kanal (Gair Mumkin land) and also not to encroach upon the public street No.197 now or in future situated in village Bhairon Khera vide jamabandi for year 2003-04.”

The plea raised by the plaintiffs was that there is a public street bearing khasra number 197 by the side of their house. When they were raising construction over their plot, the respondents-defendants started creating hindrance and also obstructed from using the public street.

The appellants-defendants, in their written statement admitted that the plaintiffs were in possession of plot No.201 but contested their right to use street bearing khasra no.197 with plea that it was left for the houses of appellants-defendants No.1 to 6. The above appellants-defendants were using the street exclusively since the time of their forefathers.

Civil Judge (Junior Division), Jind decreed the suit with the observations that the plaintiffs have right to use the street bearing No.197 and the defendants failed to produce on record any evidence to prove that the Gram Panchayat had taken the land from their plots for carving out the street bearing khasra no.197.

Not satisfied, the appellants-defendants No.1 to 6 filed appeal, which was dismissed by District Judge, Jind. It was observed in para 15 of the judgment as follows:-

“15. Nextly, the case of the appellant-defendant was that the street comprised in Khasra No.197 was their private street and it was given by them to the Gram Panchayat for being maintained. This contention of the appellants-defendants is contrary and inconsistent with revenue record placed on the record. A perusal of copy of jamabandies Exs. P3, P4 and P6 would make it evidently clear that the land comprised in Khasra No.197 (0-12) is Gair Mumkin Rasta and owned by Gram Panchayat and in the cultivation column words “Sare Aam” have been incorporated. There is not even an iota of evidence except the bald assertions of appellants-defendants that the land comprised in Khasra No.197 was owned by them and it was given to Gram Panchayat for being maintained. As per revenue record, it is a Gair Mumkin Rasta and it is matter of common knowledge that Gair Mumkin Rasta is meant for the use of each and everyone.”

Learned counsel for the appellants while referring to the site plan produced on record as Ex.P1, copy of which has been placed on record as Annexure A-3, has argued that for the plot of respondents-plaintiffs, there is a street on the eastern-southern side bearing khasra no.207 which they have been using. The street on the northern side of their plot bearing khasra no.197 is exclusively for use by the owner of the plot no.202 and 203, as such, the respondents-plaintiffs could not use the same for egress and ingress.

The above arguments advanced by learned counsel for the appellants have no merits as in the revenue record, street bearing number 197 is mentioned as a public street and the public street can be used by all. There is no evidence that this street at any point of time was reserved for the occupants of plot no.202 and 203. As this street falls on the side of respondents-plaintiffs' plot, they have every right to use it for their egress and ingress.

On perusal of the paper book and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has no merits. Dismissed.

February 26, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE