

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

119

Regular Second Appeal No.1167 of 2016 (O&M)  
Date of Decision: April 07, 2016

Jai Singh

...Appellant

Versus

Paley Ram @ Satpal

...Respondent

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI**

Present: Mr. Jasdeep Singh, Advocate  
for the applicant-appellant.

**AUGUSTINE GEORGE MASI, J. (ORAL)**

Challenge in this appeal is to the judgment and decree dated 29.01.2014 passed by the Civil Judge (Junior Division), Sonapat, whereby the suit filed by appellant-plaintiff for permanent injunction restraining the respondent-defendant from interfering and encroaching upon the rasta (passage) in dispute and for directing the removal of the tubewell from the said passage has been decreed, appeal against which preferred by the respondent-defendant has been allowed by the Additional District Judge, Sonapat, on 13.01.2016.

2. It is the contention of learned counsel for the appellant that the factum of such a passage being in existence therein and its use by the appellant for the last 30 years has been admitted by the respondent-defendant. He, thus, contends that the findings as recorded by the Lower Appellate Court cannot sustain. Assertion has also been made that the learned Lower Appellate Court has erred in rejecting the present suit for injunction merely on the ground that no declaration of easementary right has been included in the prayer. Thus, a prayer has been made for setting

aside the impugned judgment and decreeing the suit of the appellant-plaintiff.

3. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the impugned judgment.

4. Nothing has come on record which would directly suggest that the land owned by the respondent-defendant in Khasra No.17//21 is a passage. The injunction, therefore, as prayed for, cannot be granted for the simple reason that there is no pleading in this regard and admittedly the respondent-defendant is the owner of Khasra No.17//21. It is also not in dispute that the suit is merely a suit for injunction without there being any prayer for declaration of easementary right. By now, it is well settled that mere suit for injunction would not be maintainable.

5. The observations of the Lower Appellate Court, thus, cannot be faulted with.

6. No other point has been argued by the counsel for the appellant.

7. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

8. In the light of the dismissal of the appeal, the application for stay i.e. CM No.3282-C of 2016, stands disposed of as infructuous.

**April 07, 2016**  
*Puneet*

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**