

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

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Regular Second Appeal No.5913 of 2015 (O&M)
Date of Decision: February 24, 2016

Kishni Devi and another

...Appellants

Versus

Dharmo Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Suresh Kumar Arya, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 04.02.2014 passed by the Civil Judge (Junior Division), Pathankot, whereby the suit for permanent injunction preferred by the appellants-plaintiffs to the effect that the respondents-defendants, their representatives, assignees and agents be restrained permanently from making any passage by carving out the same from Khasra Nos.40R/8, 9, 10, 41R/6, situated in village Taloor, Tehsil Pathankot, other than in due course of law, stands dismissed, appeal against which preferred by the appellants stands dismissed by the District Judge, Pathankot, on 14.05.2015.

2. It is the contention of learned counsel for the appellants that in the light of the settlement which has been admittedly entered into between the parties, exclusive possession was taken of the specified khasra numbers in the joint land measuring 73 kanals and 13 marlas. He contends that there is no dispute that the parties are in the exclusive possession of those specified khasra numbers. He further contends that the only dispute is with regard to the passage which is being used by the respondents-defendants from the land of the appellants-plaintiffs which they are not entitled to in the light of the fact that these khasra numbers have exclusively come to the

share of the appellants-plaintiffs. He, thus, contends that the judgments and decree passed by the Courts below cannot sustain and deserve to be set aside.

3. I have considered the submissions made by learned counsel for the appellants and with his able assistance, have gone through the impugned judgments but do not find any force in the said submissions.

4. The land till date is a joint holding, although as per the settlement entered into between the parties, they are in exclusive possession of specified khasra numbers and even the revenue record reflects the same. The dispute is only with regard to the passage which admittedly is being used by the respondents-defendants from the time of the said settlement between the parties and except for the said passage, there is no other passage to the land of the respondents-defendants. The Courts below have, therefore, rightly relied upon the judgments of the Full Bench of this Court in *Bhartu Versus Ram Sarup 1981 PLJ 204* as also *Sant Ram Versus Daya Ram and others 1961 (Punjab) 528*. The arrangement which has been entered into between the parties and is continuing, cannot be disturbed which is the mandate of the Full Bench of this Court and the same having been followed by the Courts below, do not call for any interference by this Court.

5. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

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

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.14720-C of 2015, stands disposed of as infructuous.

February 24, 2016

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**