

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

**Regular Second Appeal No.5226 of 2014 (O&M)
Date of Decision: August 11, 2016**

Mange Ram

.....APPELLANT.

VERSUS

Ramesh and others

.....RESPONDENTS.

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Harish Bhardwaj, Advocate
for the appellant.

SURINDER GUPTA, J.

Heard.

2. The dispute in this case pertains to the passage shown as DEFG in the site plan (Ex.PW2/A) produced on record by the respondents-plaintiffs. The existence of passage appears to be not in dispute, as learned Civil Judge (Junior Division), Gohana, in para 10 of the judgment has observed that this passage find mentioned in the report (Ex.PW4/A) prepared by the Local Commissioner and even in the site plan Ex.DW3/A produced by defendant No.1-appellant.

3. Learned counsel for the appellant argues that plaintiffs have approach to their house from the main road as well and are not using the passage in question.

4. This fact was also looked into by the Courts below. The

plaintiffs had purchased a plot from Suraj Bhan, which was on the northern side of their house. The said plot was situated on the main road, as such, the plaintiff got passage for his house through the plot purchased by him on the main road as well, but this in no manner, can deprive the plaintiffs from using passage in dispute. The only question involved in this case was the existence of passage, which appears to be not denied or disputed and the Courts below have committed no error of law or fact while decreeing the suit of plaintiffs for permanent injunction to restrain the defendants from blocking/encroaching upon the passage in dispute.

5. Learned counsel for the appellant has further submitted that the property of plaintiffs as well as appellant-defendant is joint and has not been partitioned. The relief as claimed by the appellant to seek partition of property is always available with him.

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

7. Dismissed.

August 11, 2016
deepak/jv

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No