

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

RSA No.1059 of 2016

Date of Decision: 02.08.2017

Attar Singh

.....Appellant

Vs.

Yashwanti and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Gautam Kaile, Advocate, for the appellant.

RITU BAHRI, J. (ORAL)

The appellant/defendant has come up in appeal against the judgment and decree of the trial Court dated 17.10.1012 and 31.10.2015, whereby, his suit for permanent injunction restraining the defendants from alienating the suit property, delineated by letters EFGH in the site plan Ex.P1 has been decreed in favour of respondents/plaintiff.

The brief facts of the case are that father-in-law of the plaintiff was owner of the property which was shown by ABCD and land delineated by letters MBCG was given to Ramesh i.e. the husband of the plaintiff. It had further averred by the plaintiff that land allotted to her husband namely Ramesh was surrounded by other house and as such was land-locked and her ingress and outgress from the same she had to use operation delineated by letters EFGH and show in red colour in the site plan annexed with the plaint hereinafter called suit property, and as such the same falls in the share kept by defendant No.1 Rishal Singh for himself and his other son Raj Kumar. It has further been submitted that the husband of the plaintiff i.e. Yashwanti had died and her father in law Rishal Singh many years ago started causing hinderance in the use of the land delineated in the letters EFGH which was being used by

the plaintiff as passage and resulted in plaintiff paid Rs.25,00/- as cost of passage to her father in law on 04.04.2005. Plaintiff had submitted that that her father-in-law was able to alienated the passage then there would no ingress or outgress for her house and further defendants No.2 to 4 were threatening to block the passage the moment they purchased the land and as such the defendants have flatly refused to accede to the request of the plaintiff not to sell and purchase the suit property but the request have fallen on the deaf ears of the defendants and they were adamant to sale and purchase the suit property. Hence the present suit.

Both the Courts had given their concurrent finding of facts that plaintiff was provided from the portion EFGH and the same was later on purchased by the plaintiff for a sum of Rs.2500/- from her father in law. This fact was also supported by Ex.P1 which was receipt in regard of 2500/- and Ex.P1 bears thumb impression and of both Risal Singh and plaintiff and the same had no where been disputed by defendants not defendants had tried to rebut the same family settlement. Ex.P2 reached in the family of Rishal Singh vide which the portion MBCG fell to the share of deceased husband of the plaintiff. Furthermore, it could not be said by any stretch of imagination that there can be any plot without purposes which was completely land locked and as the portion felling to the share of the deceased husband of the plaintiff was land locked there was every possibility rather was necessary corollary that a family settlement would have been reached in the family of the plaintiff to provide outgress and ingress to the plaintiff. Furthermore, Rishal Sihgh had appeared and made a statement to effect that the Yashwanti-plaintiff was using the suit property as passage and had affixed the gate thereof which provide extra weight to the evidences put forwarded by the plaintiff. So as such, it was proved on record that the suit property was being

used by the plaintiff for the outgress and ingress and she was entitled to do so as it was also part of her easementry rights.

So in the light of the discussion, the orders of the Courts below do not reflect any material irregularity or perversity which warranting interference. Hence the present regular second appeal stands dismissed.

(RITU BAHRI)
JUDGE

02.08.2017
anil

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No