

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No. 3948 of 2013 (O&M)
Date of Order: 26.10.2017

Raj Kumar and others

..Appellants

Versus

Rattan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Present: Mr. Vivek Suri, Advocate,
for the appellants.

Mr. Akshay Jindal, Advocate,
for the respondents.

ANIL KSHETARPAL, J (Oral)

Defendants are in regular second appeal against the judgment passed by the learned Additional District Judge, Panchkula.

Learned Additional District Judge, Panchkula while relying upon the report of the Local Commissioner, a revenue official, who had demarcated the area, has directed the Gram Panchayat to take steps to remove the encroachment upon the passage. The directions given in paragraph 24 of the judgment are extracted as under:-

“24. From a bare perusal of report of Local Commissioner, Ex.P1 Aks Sajra Ex.P2 and Jamabandi Ex.P3, the appellant has been able to establish and respondents no.1 to 3 have encroached upon 5 marlas of rasta bearing khasra no.114 which they are liable to vacate. However, other persons who have encroached upon the rasta have not been arrayed as respondents,

therefore, respondent no.9 Sarpanch of Gram Panchayat is under legal obligation to initiate proceedings against them under Punjab Village Common Land Act to get the passage clear from the encroachment.”

Defendants-appellants are aggrieved of these directions. It has been submitted that the plaintiff has also encroached upon certain area as per the report (Annexure P-1). He submits that once the plaintiff himself has encroached upon certain area, then the plaintiff was not entitled to seek any relief.

I have considered the submission of learned counsel for the appellants and with his able assistance gone through the record.

A bare look at the report of the Local Commissioner, which is Ex.P1 on the file, would prove that the passage, which is going from South to North, gets narrowed down when one travels towards North. The Local Commissioner after demarcating the area, have reported that various persons have encroached upon the area under the passage. It is in these circumstances, the first appellate Court has directed the Gram Panchayat to take steps to remove the construction which even includes that of the plaintiff.

Learned counsel for the appellant has further made a grievance that a drain was constructed and the entire purpose is to get the drain removed.

I have considered the submission of learned counsel.

I have no doubt in my mind that once the encroachment are removed, the Gram Panchayat with the help of the respondent and the Administration to construct a drain, which would ensure smooth flow of

water in that drain.

With these observations, the regular second appeal is disposed of accordingly.

October 26, 2017
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(ANIL KSHETARPAL)
JUDGE

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