

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

**RSA 4950/2015(O&M)
Date of decision:27.10.2017**

Tejbir Singh

.....Appellant

v.

Harbhajan Singh and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Munish Mittal,Advocate for appellant.

Jaswant Singh,J,(Oral).

CM 11826-C of 2015 is allowed and delay of 10 days in refiling the appeal is condoned.

Main case.

Plaintiff/appellant is in second appeal against the judgments and decrees dated 16.1.2012 and 17.12.2014 passed by Addl.Civil Judge (Jr.Div.)Bilaspur and District Judge, Yamunanagar, respectively whereby his suit for permanent injunction was dismissed by the trial court and findings affirmed in appeal.

Heard learned counsel for the appellant.

Plaintiff had filed a suit for permanent injunction seeking to restrain the defendants from opening door/window in the private passage of plaintiff as the same would have created hurdle in the said passage. It was alleged by him that on the western side of the house of the defendants is a private *Gali*,which belonged to plaintiff and that defendants were threatening to install door/window in the said private passage of plaintiff,

which exclusively belonged to plaintiff.

Defendants contested the suit by alleging that the *Gali* in question was *Gali share-aam*, and vested in Gram Panchayat and that many inhabitants were already having opening of their houses in the said *Gali*.

The Courts below after hearing counsel for the parties and perusing the material available on record have found that plaintiff for the reasons best known to him did not examine Joginder Singh and Jai Chand, who were stated to be co-owners of the said private passage. It was further noticed that the said private passage did not end up at the plaintiff's house and rather continued to lead towards northern side in front of many other houses. But the plaintiff did not disclose the names of owners of those houses abutting the said private passage as perhaps he was apprehensive that owners of said houses would not support his case. Thus, plaintiff had not come to the Court with clean hands. Besides that plaintiff had miserably failed to lead any evidence to show that the passage in question was private and exclusively owned by him.

At the time of hearing, learned counsel for the appellant has failed to raise any question of law much less substantial question of law warranting interference of this Court.

Dismissed.

27.10.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No