

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.5029 of 2014(O&M)

Date of Decision: 09.11.2017

Gursharan Singh & ors.

... Appellants

Versus

Joginder Singh & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Harchand Singh Batth, Advocate,
for the appellants.

RAJIV NARAIN RAINA, J.(Oral)

This is plaintiffs' second appeal in a suit for permanent injunction and for restraining the defendants from interfering with their peaceful possession of the suit corpus. The plaintiffs were unable to establish on evidence that the land claimed to be a public street was in fact meant for public use by all and sundry. If they could not establish by bringing legal evidence of the status of the suit property as asserted, then both the Courts are within their jurisdiction to have dismissed the suit. The defendants contested the claim by putting in the written statement refuting the property for public use with their right over the property being private in nature. A mere statement in oral testimony of one of the witnesses for the defendants during cross-examination, which is construed as an admission by Mr. Batth, is not sufficient for issuing the declaration prayed for in the suit for restraining the defendants from interfering in the alleged possession of the plaintiffs over the suit property. There is no trace in the evidence that the corpus is a public street for common use of public at large. There are concurrent findings of fact arrived by the courts a quo which are based on appreciation of evidence produced by the parties, which are not liable to be disturbed on the second

appeal side of this Court. The suit has been properly dismissed by the two courts leaving no scope for interference.

The appeal is devoid of merit and consequently, the same is ordered to be dismissed.

9.11.2017
monika

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>