

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

**RSA No.2424 of 1990 (O&M)
Date of Order: 03.04.2018**

Smt. Jasmati

..Appellant

Versus

Rattan Chand and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. I.P.Singh, Advocate,
for the appellant.

Mr. Som Nath Saini, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

Plaintiff filed a suit for permanent injunction claiming that the disputed property is a private passage, whereas it is the case of the defendants that the property in dispute is a public passage available to everyone.

On appreciation of evidence, both the courts have recorded a finding of fact that the property is a public passage. Both the courts have relied upon a deed of compromise entered into between the husband of the plaintiff and the respondents-defendants, dated 03.06.1986. The courts have further relied upon the order passed by the District Development and Panchayat Officer, Ex.D6, whereby on the basis of the compromise dated 03.06.1986, the complaint filed by the husband of the plaintiff-appellant was dismissed. The courts have further noticed that the husband of the

plaintiff-appellant Shiv Kumar was present in the Court on 27.07.1987 but he has not been examined. The courts have further noticed that although the plaintiff-appellant claims title of the property on the basis of the registered sale deed dated 22.08.1986, however, none of the vendor has been examined by the plaintiff-appellant.

Before the learned first appellate court, the plaintiff-appellant filed an application under Order 41 Rule 27 of the Code of Civil Procedure, so as to produce on file in additional evidence order dated 15.03.1953 passed by the Gram Panchayat. The learned first appellate court dismissed the application on two grounds:-

- (i) *the facts were in the knowledge of the plaintiff;*
- (ii) *the application for additional evidence is not supported by the affidavit of the plaintiff.*

Learned counsel for the appellant has vehemently argued that the dismissal of the application under Order 41 Rule 27 of the Code of Civil procedure was erroneous inasmuch as the plaintiff wanted to produce on record the judgment passed by the Gram Panchayat.

This court has considered the submission of counsel for the appellant, however, do not find any substance therein.

The Gram Panchayat has no jurisdiction to pass any judgment. The Gram Panchayat is only entitled to resolve petty dispute between the residents. In the present case after 1953, much water has passed under the bridge. On 03.06.1986, parties entered into a settlement, which is signed by the husband of the plaintiff-appellant and on that basis the complaint filed by the husband of the plaintiff-appellant was dismissed by the Court.

In view of the aforesaid, this Court does not find any good

ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

April 03, 2018
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(ANIL KSHETARPAL)
JUDGE

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