

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

**(1) RSA No.489 of 1993 (O&M)
Date of Order: 01.03.2018**

Prem Lata

..Appellant

Versus

Ashok Kumar and others

..Respondents

(2) RSA No.490 of 1993 (O&M)

Parmeshwari Devi

..Appellant

Versus

Kamal Kishan and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jain, Advocate and
Mr. Arnav K. Sood, Advocate,
for the appellant.

Mr. R.K.Gupta, Advocate,
for the respondents

ANIL KSHETARPAL, J.

By this judgment, Regular Second Appeal Nos.489 and 490 of 1993 shall stand disposed of as the dispute between the parties in both the suits is common.

Plaintiff-appellant in both the suits are in appeal against the concurrent finding of fact arrived at by the courts below.

Plaintiff filed two separate suits, seeking declaration challenging sale deed dated 24.10.1979 executed by Ganga Ram. The dispute in the present case is with respect to a small strip of land which is being used for common passage.

Defendants-respondents namely Askhok Kumar and Kamal Krishan had purchased a right of passage through registered sale deed dated 24.10.1979. It is not disputed that in the earlier round of litigation, which resulted into a judgment and decree dated 01.10.1984, the Court found that a small strip located in between the various plots is a passage left and no one has right to encroach thereon. It is further not in dispute that son and daughter-in-law of the Mitter Sain were party in the aforesaid suit. First appeal filed against the aforesaid judgment was upheld. The judgment passed by the trial court on 01.10.1984 is Ex.D4 on the file.

This court have heard learned counsel for the parties at length and with their able assistance gone through the judgments and decrees passed by the courts below and the record.

Learned counsel for the appellant very fairly admitted that in the earlier round of litigation, the disputed plot was held to be a common passage for use of everyone. However, he submits that once it is a passage, the sale deed executed by Ganga Ram in favour of Ashok Kumar and Kamal Krishan, dated 24.10.1979, does not confer any rights upon them.

Learned counsel for the respondents has pointed out that the sale is only with regard to use the passage. The respondents Ashok Kumar and Kamal Krishan do not intend to claim any title or raise any construction.

In view thereof, 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 appeals are dismissed.

March 01, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No