

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.87 of 2012 (O&M)
Date of Order:28.11.2018

Raj Kumar Raghav and another

..Appellants

Versus

Lakhwinder Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jain, Advocate,
for the appellants.

Mr. Lokesh Sinhal, Advocate, and
Mr. Sukhandeep Singh, Advocate,
for respondent no.1.

Mr. Ramesh Goyat, Advocate,
for respondent no.2.

ANIL KSHETARPAL, J.

Defendants-appellants are in the regular second appeal against the judgment passed by the learned first appellate court while reversing the judgment of the trial court.

Question which needs determination is:-

“Whether a street carved out by a private colonizer while developing a residential colony would be a private street exclusively for the use of the residents of the aforesaid colony or a public street?”

It is not in dispute that Rajender, brother of the plaintiff, carved

out a colony towards Northern side of the house of the plaintiff-respondent. He left in between 17 feet wide street.

Defendants-appellants undisputedly purchased the property from Rajender or his successors and it is depicted that on Eastern side there is a street having width of 17 feet. It is the case of the defendants-appellants that the aforesaid street is their private street and no one has right to pass through the aforesaid street.

Once a private colonizer carves out a colony on an agricultural land and assigns/reserves certain area for streets and other common utility, such streets/roads/public utility areas cannot be said to be private exclusively belonging to the residents of that colony only. The streets are for common use and for benefit of one and all. The residents of a particular colony cannot be permitted to claim their exclusive domain to use over such streets which have been laid down. If that is permitted, it would lead to chaos. Residents of each colony would not permit the residents of other colony to pass through the streets. These streets are for common use and no one can claim any right, title or interest on the aforesaid except right to use while permitting others to have corresponding right.

Learned first appellate court has already noticed that relief to greater extent has already been granted by the Municipal Committee on removal of encroachment, however for settling the dispute for all times to come, the appellate court has held that the street is for common use and residents of the colony cannot claim that they are the only ones, who are entitled to use the same.

In view thereof, this court does not find any good ground to interfere.

The regular second appeal is dismissed.

November 28, 2018
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(ANIL KSHETARPAL)
JUDGE

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