

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

RSA 3717 of 2016 (O&M)
Date of decision: 15.10.2018

Tarsem Singh

....Appellant

versus

Angrej Singh and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. R S Sekhon, Advocate
for the appellant

-.-

Rekha Mittal, J (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for permanent injunction restraining the respondents/defendants from blocking or causing interference in use of passage, 16 karam in length and 3 karam in width along with canal that leads to land of the appellant/plaintiff as shown in red colour in site plan, adjoining khasra No. 40M//7/1 (4-7), 7/2 (1-11), situated in Village Akku Maste Ke, Tehsil and District Ferozepur as per affidavit given by Mukhtiar Singh, father of respondent No.1 to Gurbachan Singh, father of the plaintiff, was dismissed by the trial Court vide judgment and decree dated 02.07.2015.

The Court in appeal, in para 20 of the judgment, has noticed to the following effect:-

“The revenue record i.e. jamabandi for the year 2009-2010, Ex.D1/B, khasra girdwari entries Ex.D1/A for Sauni 2012 shows the ownership and cultivating possession being that defendants No. 2 and 3 over the suit land. No passage has been

shown in the suit land nor the same has been reflected in Aks Sajra Ex. X-1 as to the same abutting khasra No. 7/1,7/2.

In the succeeding para, it has been noticed that Kashmir Singh, Halqa Patwari (PW6) has deposed in his cross examination that land owned by the plaintiff bears different khasra numbers than the suit land. The certified copy of *Aks Sajra*, Ex.X-2 is correct as per him. Further noted that affidavit upon which much emphasis has been laid by counsel for the appellant rather shows that no reliance can be placed upon the said document as the same has not been got attested from Notary Public or a Magistrate.

This apart, perusal of the judgment would reveal that the said document has not been proved in accordance with law and only a copy thereof has been marked as such. The Courts, on a detailed consideration of materials on record, has negated plea of the appellant with regard to existence of passage at the spot or his entitlement to use that passage for having access to his land which is situated beyond the canal.

Counsel for the appellant has failed to point out any materials on record to substantiate his plea that consistent findings of fact recorded by the Courts suffers from an error much less perversity, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed *in limine*.

(Rekha Mittal)
Judge

15.10.2018
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