

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

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RSA No.2943 of 2015 (O&M)

Date of decision: 23.04.2018

Anita and another

..... Appellants

Versus

Jagdish and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Pradeep Virk, Advocate
for the appellants.

Mr. Aashish Chopra, Advocate and
Ms. Niharika Sharma, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiffs had filed a suit for declaration and permanent injunction asserting that the defendants have encroached upon the passage which was 20' feet wide. Both the Courts below after appreciating the evidence available on the file have recorded a finding that the width of the passage is in fact 11' feet and the plaintiffs have no right to enter into the house of the defendants while claiming width of the passage to be 20' feet wide.

Learned counsel for the appellants, during the course of arguments, has submitted that even the passage of 11' feet wide is not available. Learned counsel for the respondent has pointed out that 11' feet

passage as recorded by both the Courts below is available and they are not obstructing the plaintiffs or any one else in using that passage which is 11' feet wide. However, he submits that the plaintiffs under that garb have no right to enter into the house of the defendants by claiming that the passage to be 20' feet wide and pieces of land owned by the defendants does not result in encroachment of the street which is only 11' feet.

In view thereof, this Court does not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

23.04.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No