

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-3237-2017 (O&M)

Date of decision: September 06, 2018

Asha Rani and others

...Appellants

Versus

Karnail Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.S. Chauhan, Advocate for the appellants.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/respondent No.1 filed a suit against appellants and respondents No.2 & 3 for mandatory injunction, directing defendants to restore 15' wide street by removing the wall 'AB' shown in the site plan, situated in the revenue estate of village Sarai, District Pathankot with consequential relief of permanent injunction restraining defendants from causing any obstruction in the street. It is alleged that houses/plots of the parties exist in Khasra No.45, measuring 02 Kanals. Plaintiff and Harish Saini opened their gate towards the street and the Municipal Corporation had provided sewerage system therein and made the said street pucca, which had become a public street. Defendants No.1 to 6 were attempting

to stop the plaintiffs from using the said street. Defendant No.6 in connivance with the officials of the Municipal Corporation raised a wall at the northern end of the disputed street. Suit was resisted by the defendants. Defendants No.1 to 6 in their joint written statement pleaded that they had purchased land bearing Khasra Nos.547/95R & 96R from Randhir Singh, who carved out private streets therein. Plaintiffs purchased land from other owners and thus, he had no right to disturb the street in question. Other averments made in the plaint were also denied. Defendant No.7 Municipal Corporation pleaded that it had not constructed any slab and there is no link between the two streets. However, the Municipal Corporation had paved both the streets. No obstruction was made by anyone on the public street. After hearing both the parties and perusing oral as well as documentary evidence, the trial court decreed the suit directing defendants to remove the wall and restraining them from obstructing the plaintiff. It observed that street in dispute is a public street maintained by the Municipal Corporation and thus, every one has right to use the same. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

CM-7953-C-2017:

Since the main appeal has been dismissed on merits, this applications for condonation of delay does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

September 06, 2018
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No