

**Sr. No. 112
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

RSA No.5257 of 2017 (O&M)

Date of Decision: 08.08.2018

Pale Ram

... Appellant

Versus

Krishan Lal

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Ankur Malik, Advocate,
for the appellant.

TEJINDER SINGH DHINDSA, J.(ORAL)

A suit filed by the plaintiff Krishan Lal for permanent injunction and to restrain defendant Pale Ram son of Sh. Roop Chand to obstruct access of the plaintiff from a rasta (passage) reflected on the Southern side of killa No.22/1/1 stands decreed by both the Courts below.

Defendant is in second appeal before this Court.

Brief facts that may be noticed are that suit had been instituted by the plaintiff claiming to be owner in possession of agricultural land comprising in Khewat No.167/144 Khatoni No.198, Killa No.35//20/2(3-4), 22/1/1(6-04), 40/2/1/2(3-16), total measuring 13K-4M situated within the revenue estate of village Jawhra, Sub tehsil Khanpur Kalan, District Sonapat.

It was asserted by the plaintiff that on the Western side of land killa No.40/2/1/2 measuring 03 kanals 16 marlas, there is a rasta/passage and which comes from the Southern side of killa No.22/1/1. It was asserted that such rasta exists since the time of

consolidation and the defendant has no right to obstruct access of the plaintiff from such rasta.

Accordingly, restraint by way of permanent injunction had been sought.

Counsel appearing for the defendant/appellant would vehemently argue that the plaintiff has access to his land through a pakka rasta and as such could not claim any rights over the rasta in question pertaining to which the injunction had been sought.

I have heard counsel for the appellant at length and having perused the pleadings on record, I am of the considered view that there is no merit in the instant appeal and the same deserves to be dismissed.

The submission raised by counsel for the appellant to the effect that there is another passage available with the plaintiff (respondent herein) for access to his land would not be of any consequence. Concurrent findings of fact have been recorded that the plaintiff/respondent was owner of killa No.40/2/1/2. In his deposition, the defendant/appellant while being cross-examining had admitted to the rasta at the Western side of Killa No.40/2/1/2. There is also a clear admission that such rasta is common and is for all the biswedars. The rasta having been carved out during consolidation proceedings was also conceded.

It would be pertinent to take note that defendant/appellant set up a case that the rasta in question has been carved out of khewat No.171/148. However, no evidence was adduced on record to reflect defendant to be the owner of

khewat No.171/148.

In view of the above, no infirmity is found in the impugned judgments whereby the relief of permanent injunction has been granted and the present defendant/appellant has been restrained from obstructing the plaintiff/respondents from using of the rasta in question and which is on the Western side of Killa No.40/2/1/2.

The instant appeal does not raise any question of law much less substantial question of law.

Appeal dismissed.

Since the main appeal itself has been decided, the pending application, if any, shall also stand disposed of.

08.08.2018
vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No