

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

**RSA No.6378 of 2017 (O&M)
Date of Decision:02.08.2018**

**Kuldeep Singh and others Appellants
Vs
Gram Panchayat, Village Mudarpur....Respondent**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Arun Jindal, Advocate
for the appellants.

RAJ MOHAN SINGH, J.

[1]. Plaintiffs are in Regular Second Appeal against the concurrent judgments and findings recorded by the Courts below in a suit for permanent injunction.

[2]. The trial Court partly decreed the suit *qua* the use of *rasta* by the plaintiff, however *qua* remaining claim of the plaintiffs the suit was dismissed.

[3]. The plaintiffs filed a suit for permanent injunction restraining the defendant from changing the nature and storing dirty/rainy water in *hadda rori* i.e. creating obstacle in the level use of *hadda rori*. Plaintiffs claimed that they were in cultivating and peaceful possession of their land shown in red colour in the site plan. *Hadda Rori* was shown in green colour in the site plan in *Khasra* No.21(1-0). The same was in use since long time.

Rasta shaream was shown by red colour in khasra Nos.26 and 32. The plaintiffs alleged that the defendant has carved out a water channel without the permission of the competent authority for storing of dirty water in the *hadda rori* measuring 1 *kanal* 0 *marla*. Land of the plaintiffs is situated in adjoining land of *hadda rori*.

[4]. The suit was contested by the defendant on the ground that plaintiffs have encroached upon a public *pahi* and have sown wheat crop. Defendant has taken possession of the *pahi* lawfully and carving of water channel was denied. Defendant projected the defence that in order to drain out dirty water from the village underground pipes were being laid to control water pollution. Level of land of plaintiffs is higher than the level of land of *hadda rori*, therefore, there is no threat perception available to the plaintiffs.

[5]. I have considered the submissions made by learned counsel for the appellants.

[6]. As per claim set up by the plaintiffs, they claimed injunction with regard to *rasta shaream* bearing *khasra* No.26 (7-14) and 32(2-14). The perusal of *jamabandi* Ex.P-3 would show that the *rasta* was shown to be '*shaream gair mumkin*' in the column of the *jamabandi*. The *rasta* being a public *rasta*,

therefore, public at large would be entitled to use the same and the defendant cannot restrain or cause any obstruction in the very use of the *rasta* by the plaintiffs.

[7]. Suit of the plaintiffs was partly decreed and the relief *qua rasta shaream* claimed by the plaintiffs was established. The suit *qua* the relief claimed by the plaintiffs for restraining the defendant from changing the nature and storing dirty water in *hadda rori* was dismissed as the act of Gram Panchayat was in furtherance of public welfare by draining out dirty water of the village in some open space.

[8]. The plaintiffs could not establish their rights viz-a-viz. land of *hadda rori* which is vested in the Gram Panchayat as *shamlat deh*. The suit filed by the plaintiffs was not in the representative capacity. The act of the Gram Panchayat was not proved to be on account of any *mala fide* towards the plaintiffs or having suffered with any perversity.

[9]. In view of aforesaid, no law point worth cognizance is involved in the present appeal. The same is found to be totally devoid of merits and is accordingly dismissed in *limine*.

August 02, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No