

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

**CRM-M No.11713 of 2014 (O&M)
Date of Decision: 06.02.2019**

Jagtar Singh

.....Petitioner

Versus

Sukhdev Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Om Pal Sharma, Advocate for the petitioner.

Mr. D.S.Gurna, Advocate for the respondent.

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of impugned order dated 17.01.2014 (**P-4**), passed by learned Additional Sessions Judge, Ludhiana, whereby the order dated 20.04.2010 (**P-3**), rendered by learned Sub Divisional Magistrate (East), Ludhiana, thereby rejecting the application of the respondent under Section 133 of the Code of Criminal Procedure (*for short 'Cr.P.C.'*), has been set aside and the petitioner has been ordered to remove the encroachment upon the land comprised in Khasra No.832.

It is contended by learned Counsel for the petitioner that the impugned order is not sustainable inasmuch as there is no finding to the effect that petitioner has encroached upon the passage in dispute.

On the other hand, learned Counsel for the respondent has submitted that the petitioner is found to be an encroacher on public passage and as such, the petition deserves to be dismissed.

Heard both sides and perused the paper-book.

This is not in dispute that Khasra No.832 is recorded as 'Gair Mumkin' passage and as per the report (P-2), submitted by the Local Commissioner, the said passage has been encroached upon by the petitioner up to the extent of 4/1/2x33 feet and findings recorded by learned Additional Sessions Judge, Ludhiana in para 8 are as under:-

“ As per evidence and revenue record placed on the file i.e. Jamabandi Ex.P1, land comprised in khasra no.832 is recorded as a Gair Mumkin passage whereas land owned by revision petitioner comprised in khasra nos.56//21 measuring 3 Kanals 16 Marlas is connected with the main passage through the passage in dispute comprised in khasra no.832 and the Local Commissioner appointed on orders of Tehsildar (East) after conducting the demarcation submitted his report Ex.P2 according to which respondent had encroached upon the entire length of the passage to the extent of 4/1/2x33 feet. ”

To a pointed query, learned Counsel for the petitioner has conceded that no objection(s) against the report of Local Commissioner was filed by them.

In view of above, this Court is fully convinced that the order dated 17.01.2014 (P-4), passed by learned Additional Sessions Judge, Ludhiana, is absolutely legal and there is no material on record to interfere the findings above.

Accordingly, the present petition is dismissed.

February 06, 2019

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**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>