

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

362

RSA No.1796 of 1998 (O&M)

Date of Decision: August 26, 2019

Hari Ram (Deceased) through LRs and anotherAppellants

versus

Ajmer Singh (Deceased) through LRs and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. J.S. Saneta, Advocate for the appellants.

Mr. Abhimanyu Kalsy, Advocate for
Mr. A.K. Kalsy, Advocate
for respondents No.1 to 3 & 5.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against judgment and decree dated 08.01.1998 passed by the Additional District Judge, Patiala whereby appeal preferred by the respondents/defendants No.1, 3, 5 to 7 was partly allowed, judgment and decree passed by the trial Court in respect of paved street B, B1, B2 and B3 was set aside.

The sole submission made by counsel for the appellants is that as the street in question is a public street, managed by Panchayat of the village, the appellants/plaintiffs have right to use the said street for the purpose of egress and ingress to the site marked ABCDEFGH, held to be ownership and in possession of the appellants/plaintiffs.

Counsel representing the respondents, on the contrary, has supported the judgment and decree passed by the Court in appeal with the submissions that appellants have neither raised any pleading of the street in question being a public street nor they could establish their right to use the said street either as easement by way of prescription or that of necessity.

I have heard counsel for the the parties, perused the paperbook and records.

Perusal of allegations raised in the plaint would reveal that the appellants have not raised any such plea on the basis whereof they have claimed right in the paved street. As per the settled position in law, the plaintiffs have to stand on their own legs to be successful before a Court of law. Since in the present case, the appellants have failed to plead and prove their right in the street in question which is stated to be infringed by the defendants/respondents, I do not find an error much less perversity in findings of the Court in appeal rejecting claim of the appellants in respect of the paved street B, B1, B2 and B3.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

August 26, 2019

Ashok

[REKHA MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No