

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

RSA No.3422 of 2018 (O&M)  
Date of decision : 25.03.2019

Hussain Ali Khan

...Appellant

Versus

Atma Nand Jain Sabha and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.**

Present: Mr. M.S. Yadav, Advocate for  
Mr. Sunny K. Singla, Advocate for the appellant.

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**ANIL KSHETARPAL, J.**

Defendant-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

Plaintiffs-respondents filed the present suit seeking relief of permanent injunction restraining the defendants from interfering into the peaceful possession of the passage of Sabha-plaintiff No.1 which is situated at Moti Bazaar, Ludhiana bypass road.

Plaintiff No.1-respondent herein, a registered society is owner of land measuring 34 kanals and 14 marlas. The land is bounded with a wall having three gates for entry and exit. It is claimed by the plaintiff-society that a passage was left in front of the gate and the

passage in dispute is used by pilgrims visiting the temple constructed in the property in dispute.

Ownership of Sabha over the land measuring 34 kanals 14 marlas is not in dispute, however, it is claimed by the defendant that the plaintiffs have no right, title or interest in the plot measuring little bit more than 647 square yards. It is pleaded that Mohammad Ehsaan Ali Khan Sahib Khuaneen of Malerkotla was owner of land measuring 34 kanals and 14 marlas who sold the same to Faiz Mohammad Khan i.e. grandfather of the defendant on the basis of lease dated 24.06.1924 and later on, on the death of Faiz Mohammad Khan, Ehsaan Ali Khan Sahib Khuaneen of Malerkotla gave the plot measuring 647 square yards to Sadiq Khan, father of the defendant on lease for a sum of ₹100/- on the basis of lease deed dated 20.12.1943 and after the death of Faiz Mohammad Khan, Sadiq Khan became owner of garden known as Rustam Ali Khan Bagh alongwith plot in dispute. Sadiq Khan sold land measuring 34 kanals and 14 marlas to plaintiff No.1-society vide sale deed dated 09.08.1943 and the plot in question is not a passage.

On appreciation of the evidence, the Courts have decreed the suit filed by the plaintiffs. It is apparent that as per the revenue record, there exist a passage in khasra No.553 which is owned and possessed by the plaintiff-society. Even as per the layout plan Ex.P10, a passage is existing in khasra No.553. Still further, plaintiffs claim that father Sadiq Khan was given this property through lease deed dated 20.12.1943 whereas sale deed in favour of the plaintiff-society is dated 09.08.1943.

Therefore, a person who was not owner had no right to lease out the property in favour of father of the defendant.

Learned counsel for the appellant although made sincere attempt, however, could not draw attention of the Court to any substantive error arising from misreading or non-reading of the evidence.

Hence, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below .

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

**25.03.2019**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-      Yes/No**

**Whether reportable:-                Yes/No**