

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

RSA No.696 of 2017 (O&M)

Date of decision:21.02.2019

Sube Singh

... Appellant

Vs.

Ashok Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The plaintiff instituted the suit for injunction seeking restrained from interfering into peaceful possession over the eastern half portion of the plot bearing no.206 situated within the abadi deh of village Jagdishpur shown in yellow colour in site plan.

It was alleged that aforementioned plot was purchased from Raghbir son of Hira, vide registered sale deed dated 13.05.1991 and constructed the house on the western half of the plot and remaining eastern half was lying vacant. The defendant attempted to encroach the eastern half side of the plot, but perpetual requests did not yield result, thus, cause of action accrued to file the suit.

The appellant-defendant opposed the suit and stated that plaintiff and his father have encroached upon the plot number 205 belonging to Rajo Devi and purchased plot no.206 and constructed the

house over the plot numbers 205 to 207 and there was no open area as alleged but there was intervening street, thus, the plaintiff encroached upon plot no.204 without any right.

By filing a counter claim, defendant sought the injunction against the plaintiff from interfering into peaceful possession over the plot bearing no.204. On the basis of evidence, both counter claim and suit of the plaintiff had been decreed.

Learned counsel appearing on behalf of the appellant-defendant submitted that suit in the absence of non-impleadment of Gram Panchayat as party was not maintainable. The plaintiff had no locus to espouse the cause of Gram Panchayat by protecting the public path. The existence of same has been proved during the evidence.

I am afraid the aforementioned argument is not sustainable as defendant has not been able to belie the ownership of the plaintiff with regard to plot, though the plaintiff had concealed the material facts regarding existence of public path which was brought to the notice of the Court by the appellant-defendant. It is in these circumstances, the Courts below had restrained both the parties i.e. plaintiff and defendants from encroaching peaceful possession of plot no.204 situated in abadi deh of village Jagdishpur, Tehsil and District Sonapat being vested in Gram Panchayat and as well as alienation or incumbrance.

The plaintiff was restrained from interfering into peaceful possession of the defendant-counter-claimant over plot no.204 and the defendant was restrained from interference in other plots regarding

encroachment as noticed above.

The most innocuous decree, in my view, cannot be said to be suffering from illegality and perversity, for, even if the Gram Panchayat was not made party or espouse the cause, the provisions of Punjab Village Common Lands (Regulation) Act 1961 as applicable to Haryana empower any resident of area to institute the eviction proceedings.

Resultantly, the regular second appeal is dismissed.

	(AMIT RAWAL) JUDGE
February 21, 2019 savita	
Whether Speaking/Reasoned	Yes
Whether Reportable	No