

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

RSA No.4807 of 2018 (O&M)
Date of decision: 17th February, 2020

Pritam Kaur

... Appellant

Versus

Bhim Chand & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sukhmeet Singh, Advocate for the appellant.

FATEH DEEP SINGH, J.

Having been unsuccessful first before the Court of learned Civil Judge (Junior Division), Moga who dismissed the suit of the plaintiff Pritam Kaur vide judgment dated 01.09.2016 and then before the Court of learned Additional District Judge, Moga who upheld the findings of the learned trial Court through impugned judgment dated 22.02.2018, the plaintiff has come up in this regular second appeal.

Upon hearing Mr. Sukhmeet Singh, Advocate for the appellant and perusing the records of the case.

The appellant plaintiff Pritam Kaur filed a suit for permanent injunction restraining the defendants Bhim Chand and Bhola, both siblings from the neighbourhood of the plaintiff, from encroaching upon the street detailed in the site plan as well as directing the defendants to remove the illegal and unauthorized construction made by them. The

claim of the plaintiff and the defendants is a dispute in respect of a street which is a passage of ingress and outgress for both the parties besides others and happens to be a six feet wide street. The plaintiff claims that the defendants intended to encroach upon this street by extending the sunshade (Chajja) on their house whereas the defendants claim that they do not intend to encroach upon the street and rather are raising six inches sunshade (Chajja) to protect themselves from the rain and sun, and that their material has been illegally and forcibly taken away by the plaintiff through use of force.

Admittedly, the disputed property is situated in a locality known as Palta Mohalla in Kot Ise Khan, a rural area. There is nothing suggestive proved on the records by the plaintiff, onus upon whom lay heavily to prove her case entitling her to the decree prayed for, that there has been violation of the civic laws regarding such construction or the apprehension was to deny them their legitimate and legal right of easement. When there is admitted fact by the plaintiff herself in her cross-examination that there was no obstruction in the use of the passage either through rickshaw, motorcycle or cycle, which usually have free access through this passage and rather what one can gather, it is a pure dispute of ego-clash for a motivated cause. The Court below had rightly held that the right of the defendants to raise construction is subject to that the same does not cause inconvenience to the people and the public at large. What one can decipher, it is a free and uninterrupted, unbridled

right of the owner to use his property without causing injury and annoyance to his neighbour and nothing is suggestive to that effect in the present case necessitating intervention by this Court. Learned counsel for the appellant could not convince this Court any illegality or perversity in the impugned findings. The appeal being hopelessly without any merit stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

February 17, 2020
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No