

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

RSA No.3565 of 2019 (O&M)
DATE OF DECISION : 29.04.2022

Ravinder

.....Appellant

versus

Kulwant

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jai Singh Yadav, Advocate for the appellant

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ALKA SARIN, J. (Oral):

The plaintiff-appellant is in second appeal against the judgments and decrees dated 01.02.2018 and 01.11.2018 passed by both the Courts below dismissing his suit for permanent injunction.

The brief facts relevant to the present *lis* are that the plaintiff-appellant filed a suit for permanent injunction against the defendant-respondent alleging that he is the owner in possession of the land shown in the site plan and he has ingress and egress from the disputed street which is his private street. The case as set up in the plaint was that the defendant-respondent, without any lawful authority, was bent upon opening the gate in the disputed street and that the defendant-respondent has no concern with the said street which is a private street of the plaintiff-appellant. The suit was contested by the defendant-respondent on the ground that the same was a common street for both the parties as well as the neighbours. On merits, it

was further contended that the defendant-respondent had purchased the plot adjoining the disputed street from one Birender son of Hari Singh vide Sale Deed dated 12.04.2004. It was further stated in the written statement that many co-sharers were using the disputed street for ingress and egress and this was the only passage to reach their respective houses. On the pleadings of the parties, the following issues were framed :

1. Whether the *gali* marked as ABCD and shown with blue colour in the site plan is private *gali* of plaintiff and is in his exclusive possession ? OPP
2. Whether the defendant is causing interference in the use and occupation of aforementioned *gali* ?
OPP
3. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for ? OPP
4. Whether the suit of plaintiff is not maintainable ?
OPD
5. Relief.

The Trial Court vide judgment and decree dated 01.02.2018, on the basis of the pleadings of the parties and the evidence led, dismissed the suit of plaintiff-appellant. Aggrieved by the said judgment and decree, the plaintiff-appellant preferred an appeal which was also dismissed by the lower Appellate Court holding that the street was a public street and the plaintiff-appellant had failed to show that the same was a private street of the plaintiff-appellant.

Learned counsel for the plaintiff-appellant has contended that Ex.P3 dated 20.05.1990 was a settlement arrived at between Hari Singh son of Bhupinder and Ravinder son of Tek Chand (plaintiff-appellant) regarding one Neem tree which was on the *rasta* and it was stated in the said written compromise that the *rasta* was a private *rasta*.

Heard.

In the present case, both the Courts below have concurrently found that the street was not a private street but was a public street. No evidence was led to show that the said street was a private street. In fact, the plaintiff-appellant while appearing as PW2, in his cross-examination, admitted that the house of his brother Rajbir is also on the street and his plot falls ahead of the plaintiff-appellant's plot and that the disputed street came to an end after the plot of Rajbir. It was also admitted that one plot of Bane Singh also had access only from the said disputed street. It was further admitted that house of one Bharat Bhushan was also situated and the access was from the disputed street. There is no evidence which has been produced by the plaintiff-appellant to show the street to be a private street, rather the evidence produced by the plaintiff-appellant himself goes to show to the contrary.

No question of law, much less, any substantial question of law arises in the present case. Both the Courts below have recorded concurrent findings of fact warranting no interference by this Court.

In view of the above, I do not find any illegality and infirmity in the judgments and decrees passed by the Courts below. The appeal is,

accordingly, dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

(ALKA SARIN)
JUDGE

29.04.2022
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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