

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

CR-2860-2019 (O&M)

Date of decision: 22.12.2022

Balbir Singh and others

....Petitioners

Versus

Ram Kishan and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Ravinder Malik (Ravi), Advocate for the petitioners

Mr. Veneet Chaudhary, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

Challenging the correctness of the concurrent orders passed by the trial court as well as the First Appellate Court, while deciding the application under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908, the plaintiffs have come up in the revision petition.

The plaintiffs claim a decree of permanent injunction restraining the defendants from interfering in their possession. While contesting the suit, the defendants claim that the plaintiffs have encroached upon the circular road of the village and the Tehsildar, on demarcation, has confirmed the same. Thus, both the courts have dismissed the application.

Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

Learned counsel representing the petitioners contends that the predecessor of the plaintiffs purchased a large chunk of land including the suit property vide sale deed dated 26.06.1959. He submits

that the plaintiffs are in possession. Hence, they are entitled to protect their possession.

On the other hand, the learned counsel representing the respondents claims that the aforesaid sale deed is with respect to an agricultural land and not with regard to the residential area of the village. It is contended that on 13.03.2018, the revenue official, on demarcation of the land, found that the plaintiffs have encroached upon a public passage. He submits that under the garb of an injunction order, the plaintiffs want to prolong their encroachment on a public passage.

This Court has considered the submissions. Both the courts have found that the sale deed executed in the year 1959 pertains to agricultural land and does not cover the suit property. Moreover, the report of the Tehsildar confirms that the plaintiffs have encroached upon a public passage. Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

22.12.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE