

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

**ESA No.32 of 2023(O&M)
Date of Order:30.11.2023**

Bimla Devi and others

.Appellants

Versus

Balwan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Sandeep K. Sharma, Advocate
for the appellant.**

**Mr. Pritam Singh Saini, Advocate
for M.C., Rohtak.**

Mr. Jaspal Singh Pannu, AAG, Haryana

ANIL KSHETARPAL, J

1. The third party objector assails the correctness of the dismissal of their objection petition by the Executing Court which in appeal has been affirmed by the first appellate court.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. In order to provide roof to landless Schedule Caste and Backward Class residents, the Gram Panchayat Kanheli, gifted 22 kanals and 17 marlas land by carving out plots on 09.03.1994, to enable them to construct their houses.

4. These poor allottees were forced to file a civil suit on 27.09.2008, for grant of decree of possession of the land gifted to them by the Gram Panchayat. In the aforesaid suit, the State of Haryana, Gram Panchayat Kanheli and Municipal Corporation, Rohtak were impleaded as

the defendants. The aforesaid suit was decreed on 03.04.2013, with the following observations:-

“It is ordered that the suit of the plaintiffs succeeds and the same is hereby decreed with costs. The possession of the land in question gifted to the plaintiffs be delivered to the plaintiffs and the defendants are, hereby, restrained from utilizing the land in question for any other purpose and from allotting the same to any other person. Further, it is declared that the resolution dated 18.05.2008 passed by the defendant no.2 is illegal and void and not binding upon the plaintiffs.”

5. The aforesaid judgment and decree was upheld in appeal on 15.10.2016. Thereafter, the aforesaid decree holders are trying to implement the decree. This court has been informed that the decree passed by the trial court was also upheld in the Regular Second Appeal and the same has become final.

6. The petitioners claim to have purchased plots from the colonizers. They objected to the implementation of the decree on the ground that in the sale deeds executed in their favour, the adjoining land is shown as a passage and the sewerage line has been laid at that place. This fact is strongly disputed by the learned counsel representing the Municipal Corporation, Rohtak.

7. The learned counsel representing the appellants contends that the right to passage is a fundamental right and the appellants and their vendors were using the same for the last 40 years. He further submits that the decree holders are being allotted plots measuring 100 square yards instead of 3 marlas plot i.e. little more than 90 square yards plot.

8. On the other hand, the learned counsel representing the

Municipal Corporation, Rohtak, submits that the landless persons were allotted 3 marla plots and possession has already been allotted qua 3 marla plots each.

9. This court has considered the submissions of the learned counsel representing the parties.

10. The appellants claim that the adjoining property to their residential houses is being used as a passage for quite some time. The Executing Court has found that the aforesaid passage came into existence only after the gift deeds were executed in favour of the decree holders. The learned counsel representing the appellants failed to draw the attention of the court to the evidence to prove that the passage was in existence before the gift deeds were executed.

11. With reference to the second argument of the learned counsel representing the appellants, it may be noted here that the Municipal Corporation vehemently denies laying down the sewerage line or laying pavers in the alleged passage.

12. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

13. Dismissed.

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

November 30, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO