

2024:PHHC:018475
**144 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-1911-2023 (O&M)
Date of decision: 09.02.2024

Sewa Singh and another

....Petitioners

Versus

Chanan Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ramandeep, Advocate for the petitioners

Mr. Karan Gupta, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. This is the plaintiffs' revision petition to challenge the correctness of the order passed by the First Appellate Court while allowing the defendants' miscellaneous appeal against the order passed by the trial court under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908, for grant of temporary injunction. The plaintiffs filed a suit for permanent injunction restraining the defendants, their servants/agents/ partymen/ supporters from interfering or causing any interference in their peaceful possession over the land measuring 27 kanals 1 marla located in Village Shutrana, Tehsil Patran, District Patiala. The plaintiffs claim that they have purchased the property from Sh.Darshan Singh, the brother of the defendants. The defendants, while filing the suit, claimed that there is a small passage alongwith water drain, which is continuously reflected in the revenue record, except a small portion in khasra no.24.

2. The trial court restrained the defendants from interfering in possession of the plaintiffs whereas the First Appellate Court reversed the order and permitted the defendants to use the passage.

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

4. Learned counsel representing the petitioners submits that at present no passage is in existence after the location where the defendants have constructed their house. He submits that the defendants have a passage from the land comprised in Rect. no.20 khasra no.15-16 as well as the land comprised in Rect. 35 khasra no.3/2 is located at Dharoli Shutrana Road. He submits that the defendants did not bring correct facts before the Court.

5. On the other hand, the learned counsel representing the respondents has drawn the attention of the Court to Aks-shajra (official layout plan) which is part of the revenue record. It is submitted that there is a small strip of land located alongside the water drain and is reflected as passage in all the khasra numbers except a small portion comprised in khasra no.24. He submits that once in the revenue record, the passage is continuing from a long distance and is also going ahead, its omission in one corner of khasra no.24, would not result in denial of passage to them.

6. This Court has considered the submissions made by the learned counsel representing the parties and perused Annexure R-1, which is Ex.D1 on the trial court file. It is a certified copy of the official layout plan. It is evident that the defendants' house is located in khasra

no.16. A blue strip reflecting the passage is starting from the land khasra no.10/1/1. It continues in khasra no.15 and 17. However, there is small break in khasra no.24, which is of triangular shape in one corner. Thereafter, the passage continues in khasra no.23.

7. Once the passage is reflected in the revenue record, the trial court was in error in injuncting the defendants from using the same.

8. Keeping in view the aforesaid facts, no ground to interfere with the order passed by the First Appellate Court is made out.

9. Hence, dismissed.

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

09.02.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE