

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

RSA No.1379 of 2020

Date of Decision: 22.02.2024

Karnail Singh

.....Appellant.

Versus

Mewa Singh

.....Respondent.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Rajbir Singh, Advocate
 for the appellant.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment and decree, as passed by learned Additional Civil Judge (Senior Division), Sangrur (for short 'the trial Court') on 20.09.2017, whereby the Civil Suit filed by the appellant-plaintiff (here-in-after to be referred as 'the plaintiff') for seeking a decree for permanent injunction to restrain the respondent-defendant (here-in-after to be referred as 'the defendant') from encroaching upon or raising any construction or creating any obstruction in the street in dispute, with further prayer for granting the relief of mandatory injunction, by way of directing him (defendant) to remove the gate, as installed and the wall, as raised by him in front of the main gate of his (plaintiff's) house and also to clear the obstruction as caused in the drainage in the above-said street, has been dismissed as well as by the judgment and decree handed down by learned

Additional District Judge, Sangrur (for short ‘the Lower Appellate Court’) on 25.09.2019, dismissing the appeal moved by him (plaintiff) to assail the judgment and decree dated 20.09.2017, he (plaintiff) has chosen to prefer the instant appeal to lay challenge to the same.

2. Shorn and short of unnecessary details, the facts, as emerging from the perusal of the file and resulting in the filing of the present appeal, are that the plaintiff filed the afore-referred Civil Suit, while averring that a public street had been in existence on the eastern side of his house, since the year 1970-71 and the main gate of his house opened in the same. The Gram Panchayat had also re-constructed this street several times for its user by the villagers. However, the defendant installed a gate and raised a wall in front of the main gate of his (plaintiff’s) house and he also intended to raise construction and encroach upon the above-said street without having any right to do so. The defendant filed his written-statement denying the factum of the existence of the alleged public street therein and asserted that the house of the plaintiff opened on the main road towards southern side. Then, the parties had been put to the trial by framing the issues and after appreciating and evaluating the evidence as led by them on the record and hearing their respective counsel, the trial Court dismissed the Suit and the appeal, moved by the plaintiff against the judgment and decree passed by the trial Court, has also ended in its dismissal, as already indicated in the opening para of this judgment.

3. I have heard learned counsel for the appellant-plaintiff in the instant appeal, at the preliminary stage and have perused the file carefully.

4. Concededly, the edifice of the claim, put-forth by the plaintiff to seek the afore-referred relief in the Civil Suit, rests upon the sole factum of the existence of the alleged public street on the eastern side of his house. However, it is pertinent to mention here that the trial Court and the Lower Appellate Court have categorically held that he (plaintiff) had failed to substantiate the above-mentioned fact and have, rather, observed that the main gate of his (plaintiff's) house opened in/on some other street/road and he had been using the same, as such. The plaintiff has not been able to show as to how the afore-discussed concurrent findings, returned by both the Courts, are factually or legally incorrect or are perverse in any manner.

5. As a sequel to the fore-going discussion, it follows that the impugned judgments and decrees, passed by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the same are hereby upheld and the appeal in hand, being *sans* any merit, stands dismissed.

February 22, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*