

**RSA-1562-2021 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****(117)****RSA-1562-2021 (O&M)****Date of decision:- 08.07.2025****Parveen Kumar and others****... Appellants****Versus****Rakesh Kumar @ Rajesh Kumar****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Om Pal Sharma, Advocate
for the appellants.

Mr. Parveen Chauhan, Advocate
for the respondent-caveator.

**********SUVIR SEHGAL, J. (ORAL)**

1. Appellants/defendants are in second appeal assailing concurrent findings recorded by the two Courts.
2. Respondent-plaintiff filed a suit for permanent injunction restraining the defendants from creating any hindrance in the passage or encroaching upon 15 biswa passage in khewat/khata No.604/1150 bearing Khasra No.764/1(0-15) falling in revenue estate of village Lalru, Tehsil Dera Bassi, District S.A.S. Nagar. It has been pleaded that the plaintiff is the owner in possession of the suit property, which he had purchased from its original owner. Mutation of the sale has also been entered in the revenue record. Plaintiff does not have any passage to his agricultural land except from the disputed area. Defendants are trying to raise a construction on the passage and to encroach upon it. Upon being served, defendants filed a written statement contesting the suit. They

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denied the ownership and the possession of the plaintiff over the suit land. It has been submitted by them that the passage vests in the Gram Panchayat, but Gram Panchayat has deliberately not been made a party. At an earlier point, the plaintiff had also initiated proceedings under Section 133 CrPC regarding the area in question, but same were dropped. On the basis of the pleadings of the parties, Trial Court framed issues. After the parties led evidence and were heard, Trial Court decreed the suit by judgment and decree dated 26.03.2018. Defendants remained unsuccessful in the first appeal, which has been dismissed by the learned District Judge, S.A.S. Nagar, Mohali, vide judgment dated 11.02.2020, resulting in the institution of the present appeal.

3. Counsel for the appellants has argued that the plaintiff had failed to lead any evidence regarding the purchase of the suit land, which is owned by Anirudh Singh etc. Counsel urges that as the plaintiff is not the owner of the suit land, both the Courts have erred in decreeing the suit.

4. *Per contra*, counsel for the respondent-caveator has submitted that the ownership of the plaintiff has been established and as the defendants are creating an obstacles in the usage of the passage, both the Courts have rightly decreed the suit.

5. I have heard counsel for the parties and considered their respective submission, besides examining the requisitioned record.

6. Plaintiff-Rakesh Kumar has stepped into the witness box as PW-1 and has taken a specific stand that the suit land is a passage. He is supported by the three other witnesses produced by him. A perusal of the Aks Shajra, Ex.P-2, shows that the suit land is rectangular in shape and is barely a few feet wide. It



runs between agricultural fields on both sides and its dimension leads to an irresistible conclusion that it is a common passage. There is evidence on record to establish that plaintiff is using this passage for ingress and outgress to his agricultural land, which adjoins the disputed passage. As per Jamabandi for the year 2010-11, Ex.P-15, land has been described as *Gair Mumkin* area, although, it is shown to be in the ownership of Anirudh Singh etc. The stand of the defendants that the land belongs to Gram Panchayat is belied from the entry in the revenue record. In his evidence, plaintiff has categorically stated that the land is being encroached upon by the defendants, who are raising construction, which is evident from the photographs, Ex.P-3 to Ex.P-6. Even though, plaintiff is not the owner of the suit land, he has a right to use the common passage and to injunct defendants from obstructing it. This Court, therefore, does not find any error with the judgments passed by the Courts below, which are affirmed.

- 7. Appeal is bereft of merit and is dismissed with no order as to costs.
- 8. Pending application is disposed of.

08.07.2025
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No