

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****120****RSA-4327-2019 (O&M)****Date of decision: 22.12.2025****Karan Singh and another****...Appellant(s)****Vs.****Geeta and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sumit Gupta, Advocate for the appellants.

NIDHI GUPTA, J.

Defendants No. 3 and 4 are in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby suit filed by the plaintiffs/respondents No.1 to 3 herein for permanent injunction with consequential relief of mandatory injunction, has been decreed by both the Courts below.

2. The pleaded case of the plaintiffs in the plaint was that plaintiffs are owners in possession of residential plots/houses as described in the plaint. It was averred that plaintiffs has purchased the said plots vide registered Sale Deeds No. 1109, 638 and 2408 from defendants No. 1 and 4. It was pleaded that at the time of purchasing the plots, plaintiffs had been provided with Rasta having width of 10 feet for outgress and ingress of the plaintiffs. It was contended that defendants wanted to block the said Rasta by raising construction thereupon illegally and forcibly without having any right. It was also alleged that defendants tried to dig up the foundation over the disputed Rasta; and that the defendants



wanted to include the said Rasta in their property. The defendants did not pay any heed to the request of the plaintiffs to not to block the Rasta and had flatly refused request of the plaintiffs on 14.03.2012. As such, plaintiffs had instituted the present suit for permanent injunction with consequential relief of mandatory injunction on 15.03.2012.

3. Upon appraisal of the pleadings and the evidence led by the parties, vide judgment and decree dated 30.09.2016, the learned Civil Judge (Senior Division), Jhajjar had decreed the suit of the plaintiffs with cost *“to the effect that the defendants are hereby restrained from making any encroachment over any part or portion of said Rasta specifically over the portion marked by letters ABCD in the site plan Ex. P1 and further if any such encroachment has been made by the defendants, a mandatory injunction is hereby passed in favour of the plaintiff to the effect that defendants are hereby directed to remove the said encroachment and thereupon restrain themselves from making any encroachment of the said portion of passage.”*

4. The Civil Appeal filed by all the 4 defendants was dismissed by the Additional District Judge, Jhajjar vide judgment and decree dated 08.05.2019. Hence, present second appeal by the defendants No. 3 and 4.

5. It is *inter alia* submitted by learned counsel for the appellants that while passing the impugned judgments and decrees, both the Courts below misread and misconstrued the entire evidence placed on record. As a matter of fact, Khasra No.175 was owned by the defendants/appellants and at the time of carving out plots, the appellants left a Rasta in the



shape of blind alley from South to North upto plot No.174 which is depicted in site plan Ex.D6. The revenue record produced on record in evidence clearly established that there is no Rasta in Khasra No. 174 and Khasra No.174 is recorded under the ownership of Gram Panchayat and in possession of Pyare, Shri Ram etc. as Gair Marusi and nowhere any Rasta is shown to be exists out of Khasra No.174 which is connected with Khasra No. 175. Thus, finding to the effect that the Rasta which was left by the defendants out of their own land in Khasra No. 175 connects to the Rasta in Khasra No. 174.

6. It is further submitted by learned counsel for the appellants that while passing the impugned judgments and decrees, the Ld. Courts below totally overlooked the revenue record which shows that Khasra No. 174 is owned by Gram Panchayat and possessed by private persons as Gair Marusi and there is no Rasta in Khasra No. 174 which connects Khasra No. 175 to Jhajjar-Kunjaiya Road. The Rasta which is provided to the plaintiffs in Khasra No. 175, has been provided by the appellants adjoining to the plots of the defendants/appellants.

7. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

8. No other argument is raised on behalf of learned counsel for the appellants. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellants.



9. Perusal of the record of the case shows that plaintiffs had purchased plot out of Khasra No. 175 vide Sale Deed dated 17.06.2002 and that there was a Rasta of 10 feet width adjoining to their plot for ingress and outgress. As per the said Sale Deed Ex.D2, the disputed portion marked as ABCD has been shown as passage; and the said passage was left by the defendants while selling the property to the plaintiffs. Defendants had not denied the existence of passage in their written statement.

10. Even as per the Report of the Local Commissioner Ex.P8, which was accompanied by Site Plan Ex.P11, portion marked as ABCD was Rasta. It was further found that the defendants had raised fresh construction of brick wall at point AB which was a new construction. As per the Report of Local Commissioner, new wall of bricks had been constructed by the defendants and there was new excavation in the passage. No objections were filed by the defendants qua the Report of the Local Commissioner. Accordingly, learned First Appellate Court has categorically found that defendants wanted to block the passage by raising construction thereupon.

11. Furthermore, PW4 Deviram, the Ex-Sarpanch has stated in his evidence that passage in dispute has been used by the plaintiffs and other persons of the village for ingress and outgress. Deviram PW4 Ex-Sarpanch, had stated that the rasta as shown in Site Plan Ex.P1 exists at the spot and it connects the abadi of the village with main Jhajjar-Kunjaiya Road and during his tenure, he had renovated the said Rasta and water supply line is



passing through the said Rasta. It was for this reason that the defendants had left the Rasta at point ABCD which connects the main Rasta through Khasra No. 174 and adjoins the main Jhajjar-Kunjaiya Road. Accordingly, learned Courts below concluded that it may be a private Rasta which had been left by defendants for use of plot holders in Khasra No. 175 but nonetheless there exists a Rasta in the portion ABCD. Needless to say, that if this was not so, water pipeline would not have passed through the Rasta ABCD. The said Rasta was also being used by residential plot/house comprised in Khewat No. 31//24 Min Khatoni No. 32 Khasra/plot No. 175 (3-0) situated at village Raiya, Tehsil and District Jhajjar. Thus, the defendants cannot be allowed to create hindrance in the free passage of the plaintiffs.

12. Learned counsel for the appellants is unable to controvert or dispute the above said facts and findings.

13. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

14. Pending applications, if any, stand disposed of.

22.12.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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