



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 4110 of 2013 (O&M)

Date of Decision: 19.02.2025

Bala Ram

... Appellant(s)

Versus

Devki and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Anmol Verma, Advocate
for the appellant(s).

None for the respondents.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The defendant assails the correctness of concurrent findings of facts arrived at by both the Courts below wherein the plaintiffs' suit for grant of permanent injunction restraining the defendant from blocking their passage and access to the street was decreed. The defendant, while filing the written statement, admitted the existence of an open space which is used for passage. Thus, both the Courts below decreed the plaintiffs' suit. The Courts also noticed that PW.3-Municipal Official was examined, who proved the

3. The learned counsel representing the appellant submits that there is an open space, however, that is only for the appellant's use. He further submits that the defendants are not the owners of the property.

4. This Court has considered the submissions of the learned counsel representing the appellant.

5. In the opinion of this Court, the written statement filed by the appellant before the Trial Court itself proves that there was an existence of open space which was being used for ingress and egress. Moreover, the existence of passage is also proved from the building plan which was sanctioned by the Municipal Corporation.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

February 19, 2025

"DK"

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No