



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

128

RSA-2916-2025 (O&M)**Date of Decision: 26.08.2025**

Pardeep Kumar

...Appellant

Versus

Shubham and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. R.N. Lohan, Advocate for the appellant.

PARMOD GOYAL, J. (ORAL)

Appellant is aggrieved by concurrent findings of Courts below vide impugned judgments and decrees, passed by the Court of First instance and Appellate Court dated 06.05.2025 and 07.08.2025, respectively whereby plaintiffs- respondents No.1 and 2 were found entitled to easementary rights over Rasta of two Karams i.e. 11 feet passing from of land owned by the appellant. Plaintiffs-respondents had filed a suit for mandatory injunction seeking direction to appellants to remove obstructions and restore the passage in its original shape of two Karam/ 11 feet on the eastern side of Killa No.95//2/2, 9, 12 and 19 shown by red colour in site plan of village Siwara Tehsil Bawani Khera, Deistrict Bhiwani, which is meant for agricultural land owned by plaintiff bearing Khsra No.95//22(8-0), 119/1 (8-0), 2 (8-0), 9(8-0), 10 (8-0), 11 (3-13), 12(4-13) situated in same village.

2. Plaintiffs had also sought permanent injunction restraining defendants from obstructing the said passage in future. Defendants duly appeared and filed detailed written statement and claimed that no such Rasta exists and therefore the suit of plaintiff is liable to be dismissed.

3. However, both the Courts below vide impugned judgments and



decrees dated 06.05.2025 and 07.08.2025 passed by the Court of Additional Civil Judge, (Sr. Division), Bhiwani and Court of Additional District & Sessions Judge, Bhiwani, respectively concluded that plaintiff has succeeded to prove existence of Rasta measuring 2 Karams on the eastern site of Killa No.95//2/2, 9, 12 and 19 which is easement granted to them by predecessor of the defendants and that easement had never extinguished.

4. From judgments passed by both the Courts below it is clear that they had found concurrently that the suit property which was earlier owned by Tek Ram predecessor in interest of defendants who had sold the agricultural land to predecessor in interest of plaintiffs namely Dhan Singh vide sale deed dated 11.04.1958 Ex.P-1. Both the Courts below have found that in Ex.P-1 sale deed executed in favour of predecessor in interest of plaintiffs by predecessor in interest of defendants existence of Rasta was duly noticed and easementary right over it were specifically granted to predecessor of defendants. There is no rebuttal to evidence led by the plaintiffs regarding grant of easement right vide sale deed dated 11.04.1958.

5. During the course of arguments before this Court also appellants have failed to show anything wrong with the findings of learned Courts below that easementary rights were duly created and acknowledged by Tek Chand predecessor in interest of defendants in favour of predecessor in interest of plaintiffs. The sole arguments raised by learned counsel for the appellants is that this Rasta though was shown in sale deed was never used on the ground and it never existed. He asserts that no Rasta exist at the site and has placed reliance upon demarcation report. However, he fairly admits that the demarcation report is not on record.



6. Moreover, the demarcation report, which was allegedly got prepared by defendants cannot be taken into consideration as it is the case of plaintiffs that defendants have wrongly demolished the Rasta and they have filed the suit for getting the Rasta restored by way of seeking mandatory injunction against the defendants. No evidence or material could be shown by the appellants to conclude that Rasta was abandoned expressly or impliedly by plaintiff at any time. It is the case of appellants that no Rasta existed ever or it was abandoned. The court below have rightly appreciated the evidence led by the parties to conclude that rasta existed and was never abandoned by defendant but was wrongly demolished by plaintiffs. The conclusion of learned courts below is based upon evidence on record, discussed in detail and to avoid repetition it is not being noted again.

7. Learned counsel for the appellant has also referred to PW-4 Subhash who admitted that no rasta exists on the land. However, no cognizance of this statement of PW-4 can be taken as on the date of examination admittedly Rasta was demolished as per the case of plaintiff and therefore the assertion of PW-4 that no Rasta exists cannot be taken as material against case of plaintiff. During the course of arguments, learned counsel for the appellant was asked to show any other material on which implied abandonment of Rasta could be shown. However, no other material could be shown and it is clearly made out that Rasta existed as claimed by plaintiff and was demolished by defendants-appellants and against the said demolition plaintiff has approached the Court of by way of suit for mandatory injunction which was allowed by the Courts below. No error with the findings of learned Courts below which has been recorded on the basis of



evidence led before Courts can be found.

8. Both the Courts below have rightly appreciated the evidence led by plaintiff to conclude that dominant heritage was sold by Tek Ram predecessor of defendants. Before sale both dominant heritage and servient heritage vested in Tek Ram who while selling land admitted existence of easement through servient heritage and had duly recited same in sale deed Exhibit P-1. Therefore, easement existed as alleged by plaintiff/respondent and it was for appellant/defendant to show that it stood extinguished.

9. No doubt easementary rights granted by Tek Ram to Dhan Singh could be extinguished by either of following ways:-

- (a) Release by the dominant owner.
- (b) Expiration of limited period of conditions.
- (c) Destruction of heritage.
- (d) Unity of ownership.
- (e) Non-enjoyment.
- (f) Useless easement.

10. However, appellant/defendants have failed to show that easementary rights were even extinguished in any manner, impliedly or expressly.

11. Appeal is without any merit and no question of law arises, hence dismissed.

(PARMOD GOYAL)
JUDGE

August 26, 2025
Nisha-1

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