



RSA-1410-2021 (O&M)

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

(115)

RSA-1410-2021 (O&M)
Date of decision:- 13.05.2025

Nirmal Singh**... Appellant****Versus****Mangal Singh****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Ranjodh Singh Sidhu, Advocate for the appellant.

SUVIR SEHGAL, J. (ORAL)

1. Assailing concurrent finding recorded by the two Courts, appellant/defendant has approached this Court by way of present appeal.
2. Pleading that he is the owner in possession of 2/3rd share of land measuring 5 kanals as per Jamabandi for the year 2007-08 in khasra No.56//15 in the revenue estate of village Kadgill, Tehsil and District Tarn Tarn (for short "the suit land"), respondent/plaintiff filed a suit for permanent injunction restraining the defendant from obstructing or demolishing the water course and passage running in khasra No.56//15/2 (5-0). He averred that Harbanso, daughter of Lashmi, was the owner in possession of the suit land. She sold 2/3rd share of the suit land to the plaintiff vide sale deed dated 09.01.1984, Ex.P-1, and the remaining 1/3rd share was sold by her to Sawinder Singh, who further sold it to the defendant. Plaintiff claims that he is owner in possession of khasra No.55//14, 55//13 and 55//11, which is adjoining to the suit land, where he has installed a tubewell. He claims that the water to the suit land is being drawn from the tubewell. A water course and a passage passes through

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the land of the defendant. A panchayatinama/compromise dated 17.04.1999 was entered into between the parties, whereunder plaintiff gave some portion of his land to the defendant and the defendant gave the portion of water course and passage to the plaintiff. Both the parties have been adhering to the compromise, but defendant is threatening to obstruct, the water course forcing the plaintiff to institute the suit. Upon being served, defendant appeared and filed a written statement taking various preliminary objections. While admitting that he had purchased land in khasra No.56//15/2 vide registered sale deed dated 02.06.1987 from Sawinder Singh and is in possession thereof, he denied the existence of any water course and passage. Denying other material averments, he sought dismissal of the suit. Plaintiff did not file any replication and the Trial Court framed issues on the basis of the pleadings of the parties. After the parties led evidence and were heard, by judgment dated 23.04.2019, Trial Court decreed the suit and the defendant was restrained from blocking, damaging or demolishing the water course and passage. Defendant remained unsuccessful in the first appeal, which was dismissed by the learned District Judge, Tarn Taran vide judgment dated 03.10.2019 resulting in the institution of the present appeal.

3. I have heard counsel for the appellant and considered his submissions, besides examining the requisitioned record.

4. From the pleadings and evidence led by the parties, it stands established that Harbanso, who was the owner of the suit land, sold it by virtue of two different sale deeds. Plaintiff purchased 2/3rd share vide registered sale deed, Ex.P-1, and the defendant became owner of 1/3rd share by virtue of sale deed



dated 02.06.1987. As such both the parties became co-sharers in the suit land and their names are reflected as owners in the jamabandi for the year 2007-08, Ex.P-7. Plaintiff led evidence to show that he is the owner of contiguous land and has installed a tubewell. He has carved out a water course and a passage to his portion of the suit land for irrigation. The water course and passage runs through the land of the defendant. Evidence led by him also shows that a dispute arose between the parties, which was settled by way of a compromise, Ex.P-4, but the First Appellate Court has discarded the compromise by holding that as it does not bear any khasra number, it cannot be taken into consideration.

5. Defendant denied the existence of the water course and passage. However, in his cross-examination, he admitted that the ownership of the plaintiff of the adjoining land. Defendant has impliedly admitted the existence of the water channel and passage of the plaintiff when he denied that he never threatened to demolish it. Plaintiff has a right to use the water course and passage existing on the defendant’s land. Both the Courts have rightly granted permanent injunction in his favour and have passed a restraint order against the defendant. There is no illegality or infirmity in the judgments passed by the Courts below.

6. Appeal *sans* merit and is dismissed, though with no order as to cost.
7. Pending applications stand disposed of.

13.05.2025
Kamal

(SUVIR SEHGAL)
JUDGE

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