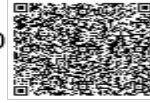


**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****117****RSA-1302-2023 (O&M)****Date of decision: 07.04.2026****Gian Chand****...Appellant(s)****Vs.****Malkiat Singh and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Bhag Singh, Advocate for the appellant.***********NIDHI GUPTA, J.**

The plaintiff is in second appeal against the concurrent judgments and decrees of the learned District Courts, whereby the suit filed by the appellant for permanent injunction, has been dismissed by both the District Courts.

2. Brief facts of the case are that the plaintiff had filed the present suit for grant of decree of permanent injunction restraining the defendants from interfering in the rasta/road marked as letters A and B in the Site Plan. It was the pleaded that plaintiff is owner of the agricultural land as mentioned in Akshajra, and he is in cultivating possession of the same. It is averred that plaintiff is using rasta Mark A and mark B for ingress and outgress from his agricultural land. However, defendants are obstructing the appellant's ingress and outgress by parking their tractor trolley at the spot. Defendants have also threatened to raise construction over the passage in dispute. Hence, present suit was filed on 01.07.2014.



3. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Ambala had dismissed the suit of the plaintiff with costs vide judgment and decree dated 23.05.2017. The Civil Appeal filed by the plaintiff was dismissed by the learned District Judge, Ambala vide judgment and decree dated 17.10.2022. Hence, the present second appeal by the plaintiff.

4. It is *inter alia* submitted by learned counsel for the appellant that learned District Courts were in error in non-suiting the appellant as even from the site plan produced by the defendants, as well as the other oral evidence produced by the defendant, it becomes clear that it is the plaintiff/appellant who is using the portion of the road to ingress, as well as the Phirni for ingress and outgress to his fields, and the defendants have no concern with the land lying across the Phirni.

5. It is further submitted by learned counsel for the appellant that the finding on issue No.1 by the courts below is totally against the facts and law and are liable to be set-aside, as the Plaintiff admittedly is the owner in possession of the agricultural land and the Khasra no. 14//1/1 and 14//12/1/2 are abutting/ touching the road "Nagla-Sahabpura Road" and the law is well settled by now that a person whose property abuts/falls and have the front of road, street or any passage in front of his property, such person is legally entitled to use the said front for the purpose of ingress and outgress and even opening the door and is also entitled to use the same for his subservient rights appurtenant to his property and this aspect of the law and right of the plaintiff have been fully failed to be appreciated by the Ld.



Courts below. Despite the admission of the very important fact that the Appellant/plaintiff is the owner and in possession of the land which includes Khasra no. 14//11/1 and 14//12/1/2 since the time of consolidation and the said Khasra no. abuts and touches the nagla-Sahabpura Road which fully proves the case of the plaintiff. It is submitted that while deciding the issue no. 1, the Learned Courts below further failed to appreciate the nature of the documentary evidence coming from the Revenue record i.e. Aksh-Sajra which is public document and is per se admissible being the public document i.e. Aksh-Sajra (Ex. P-1). Whereas on the other hand the site plan Ex. D-1 admittedly prepared on the direction of the respondent/Defendants which has no legal sanctity as compared to the Ex. P-1, have been illegally and erroneously allowed to sit over the public document which, consequently, caused a great prejudice to the Appellant/plaintiff.

6. It is contended that therefore, the findings of the learned District Courts are perverse and contrary to the evidence on record. It is accordingly prayed that the present Appeal be allowed; and the impugned judgment and decrees of the learned District Courts be set aside.

7. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellant.

8. Perusal of the record of the case shows that plaintiff has proved that he is owner of agricultural land by way of Jamabandi for the year 2011-2012 Ex.P1. However, defendants have placed on record Site



Plan Ex.D1, as per which, actual position on ground is depicted. As per the Site Plan, there is no passage in existence as alleged by the plaintiff. Moreover, Plaintiff in his evidence has admitted that the said Site Plan Ex.D1 tallies with the existing position on ground. Furthermore, PW2 Gurdev Singh has admitted in his cross-examination that he has seen the photographs Ex.D3 to Ex.D7 of the house of defendant No.2-Amrik Singh and the said photographs are correct. Undisputedly in the photographs, in the property in dispute, various full-grown trees are shown to be existing. The existence of full grown trees in the corner led to the conclusion that there is no passage actually in existence as alleged by the plaintiff.

9. Moreover, plaintiff in his cross-examination as PW1 has admitted that hindrance is faced by him due to the existence of trees planted by the Government. However, he has admitted that he has given no application to the Government for removal of the said trees. Thus, from the own admission of the plaintiff in his cross-examination, it is clear that the land of the plaintiff touches the road; and at the time of demarcation, no encroachment was found on his land. It was found that plaintiff has not been able to prove on record that any hindrance is caused by either of the defendants between the land of the plaintiff and common road for ingress and egress.

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



11.

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**.
12.

Pending applications, if any, stand disposed of.

07.04.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

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