



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

292

RSA-1574-2021 (O&M)

Date of decision : 05.02.2026

Chiman Lal and another

..... Appellants

versus

Gurcharan Singh (now deceased) through his LRs Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ankush Singla, Advocate
for the appellants.

None for the respondents.

PANKAJ JAIN, J. (Oral)

1. Plaintiff is in second appeal.
2. Plaintiff filed suit for permanent injunction and mandatory injunction. The dispute between the parties is with respect to the gate installed by the defendant in the passage being used by the plaintiff. Trial court decreed the suit in part observing as under:-

“10. Now further question arises whether the plaintiffs can take the benefit of their own wrong done by selling property 2 and 1/2 marlas as shown at Mark-CDEFC in the site plan Ex.P1. No doubt that no one can take the benefit of his own wrong. However if no relief is granted, then the plaintiffs will suffer loss for having no access to their land. Moreover in sale deed the defendant has given permission to the plaintiffs to use the passage, as such the defendant is directed to allow the plaintiffs to use the disputed passage daily from 10.00 AM to 5.00 PM. The plaintiffs are also directed not to cause any hinderance/ obstacle to the defendant in using the disputed passage in any way and not to create nuisance by taking advantage of the directions of this court.

11. In view of my above said discussion, the issue no.1 is



decided partly in favour of the plaintiffs and partly in favour of the defendant and issue no.2 is decided in favour of the defendant and against the plaintiffs.

Issues no.3 to 6:

12. Onus to prove these issues was upon the defendant but the defendant did not lead any evidence to prove these issues nor these issues were pressed during the course of arguments. As such these issues remained Not Proved.

Relief (Issue No.7):

13. In view of my above said findings, the suit of the plaintiff is hereby decreed partly with costs to the effect that the defendant is directed to allow the plaintiffs to use the disputed passage/path/way daily from 10.00 AM to 5.00 PM. The plaintiffs are also directed not to cause any hinderance/obstacle to the defendant in using the disputed passage in any way and not to create nuisance by taking advantage of the directions of this court. Decree sheet be prepared and file be consigned to the record room.”

3. Dissatisfied plaintiff preferred appeal. The Lower Appellate Court decided the same observing as under:-

“22) Defendant was though not entitled to install gate at point E on the passage leading to the property of plaintiffs and defendant depicted in site plan Ex. P1, but since it has been installed, it would just add to the security of the residents on the said passage including the plaintiffs. The gate installed can be closed from 12 AM (Night) till 5 AM for safety if the parties so desire but without there being any inconvenience to the inhabitants of the area. If at all defendant intends to lock the gate, plaintiffs and the other inhabitants of the area who have been allowed access to the passage shall be provided with the duplicate key to enable them to make use of the passage. By installation of the gate at point E, defendant cannot be granted the license to obstruct the use of the passage by plaintiffs. As the vendor had through the sale deed allowed free use of the passage to plaintiffs, the learned lower court should not have restricted the use from 10.00 a.m. to 5.00 p.m.

23) In the light of above said discussion, appeal of the appellants stands partly allowed. Defendant/ Lrs of defendants



are restrained from obstructing the use of passage measuring 11 feet 4 inch existing on the western side of the property of plaintiffs, mentioned in the head note of the plaint. However, suit of the plaintiffs for relief of mandatory injunction stands dismissed. Appeal of appellants thus stands disposed of accordingly. Decree be prepared.”

- 4. The present appeal is disposed off by modifying the judgment and decree passed by the Lower Appellate Court to the extent that the defendant is granted liberty to lock the gate from 12:00 a.m. till 04:00 a.m., but a key be provided to the plaintiff. Except from 12:00 a.m. to 04:00 a.m., the gate shall remain open.
- 5. Ordered accordingly.
- 6. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

05.02.2026
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No