



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

109

**RSA-563-2022 (O&M)
Date of decision:19.03.2026**

BIRENDER SINGH AND OTHERS

...APPELLANTS

VERSUS

BHIM SINGH AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Devender Kumar, Advocate
for appellants.

PARMOD GOYAL, J. (ORAL)

Present regular appeal is preferred by appellants being aggrieved by judgment and decree dated 11.09.2017 passed by learned Civil Judge (Senior Division), Hathi where by suit for permanent injunction and mandatory injunction preferred by respondent No.1 was decreed and it was held that areas marked as 'B to A' and 'A to D' in site plan are *aam rastas* and appellants were restrained from encroaching *aam rasta* situated towards north side of house of respondent No.1 and also from raising further construction on *aam raast*. Appellants were also directed to remove illegal construction in the form of iron gate and wall on the *aam rasta*. First appeal preferred by appellants was also dismissed vide judgment and decree dated 30.07.2021 passed by learned Additional District Judge, Palwal and judgment and decree dated 11.09.2017 passed by learned Court of First Instance was upheld.

2. Controversy in present case is short one. Respondent No.1 had alleged that *rastas* marked by letters 'B to A' and 'A to D' are adjoining to

his house marked as 'ABCD' in site plan and gate of the respondent No.1's

house opens at *aam rasta* marked 'A to D'. It was claimed by respondent No.1 that same is common passage being used by him and other villagers, however, appellants had encroached the *aaam rasta* 'A to D' by constructing *pucca* wall in front of gate of respondent No.1's house with the help of gram panchayat and also constructed iron gate illegally, thereby obstructing respondent No.1 from using said *aam rasta* 'A to D'.

3. Appellants had contested the suit and claimed that earlier the matter was reported to police and a compromise was made in police station and as per compromise, appellants were within their rights to open their gate towards the *aam rasta* but now the respondent No.1 has stepped out from the compromise and has filed suit to harass and humiliate the appellants. It was asserted by appellants that respondent No.1 cannot create any problem in peaceful and lawful enjoyment of *rasta*.

4. Defendant No.5-Gram Panchayat of village Kondal had supported the case of appellants and claimed no *rasta* exists and prayed for dismissal of suit by respondent No.1-plaintiff.

5. Following issues were framed from the pleadings of the parties:-

- i. Whether the plaintiff is entitled to a decree for permanent injunction as prayed for? OPP
- ii. Whether the plaintiff is entitled to a decree for mandatory injunction as prayed for? OPP
- iii. Whether the suit of the plaintiff is not maintainable in the present form? OPD
- iv. Whether the plaintiff has concealed the true and material

facts from the Court? OPD

v. Relief.

6. Learned Courts below after appreciating the pleadings and evidence of the parties concluded that as per own case of appellants, *rasta* existed and neither they had claimed *rasta* to be private nor had led any evidence to prove that *rasta* was private and not public *rasta* as being claimed by respondent No.1.

7. On perusal of written statement, it is clearly made out that appellants have clearly admitted existence of *rasta* as claimed by respondent No.1. Rather appellants have raised their grievance that it is respondent No.1 who is obstructing *rasta*. Even DW-2, examined by appellants, admitted that the *rasta* was made *pucca* by Gram Panchayat from its funds, which further supports the case of respondent No.1 that *rasta* is a public way. There is no rebuttal to the fact that *rasta* was got constructed by respondent No.2-Gram Panchayat. There is no reason for respondent No.2-Gram Panchayat to construct *rasta* over a private street and therefore the Courts below have rightly concluded that *rasta* in dispute which is the subject matter of present *lis* was a public *rasta* and had accordingly restrained appellants from encroaching upon same or obstructing respondent No.1 from using the same. Appellants were rightly directed to remove encroachments over *rasta*.

8. The findings of facts recorded by both the Courts below is as per pleadings and evidence of parties. Hence, no interference is warranted in the present appeal. No other question of fact or law has been raised.

- 9. Present appeal is dismissed being without any merit.
- 10. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

19.03.2026
Sunil Chander

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