



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

(139)

RSA-2100-2026 (O&M)

Date of Decision: 27.05.2026

Shyam Lal

... Appellant

Versus

Ram Nath (now deceased) through his LRs and Others

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Satbir Rathore, Advocate
for the appellant.

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VIRINDER AGGARWAL, J. (Oral)

1. The present Regular Second Appeal (hereinafter referred to as “RSA”) has been instituted assailing the judgment and decree dated 02.04.2026 passed by the learned Additional District Judge, Yamuna Nagar at Jagadhri, whereby the appeal preferred by the defendants–respondents was allowed and the decree and judgment rendered by the learned trial Court came to be set aside.

2. The appellant–plaintiff instituted a suit seeking a decree of permanent injunction restraining the defendants from causing any interference in the peaceful use and enjoyment of the three-gattha-wide passage, fully detailed and described in the headnote of the plaint and depicted in the site plan by points ‘ABCD’, and from altering the existing nature and character thereof. The plaintiff further sought a decree for mandatory injunction directing the defendants to restore the portion of the



passage marked 'EFGH' situated in Khasra No.16//22/1 to its original condition.

2.1. The case set up by the appellant–plaintiff is that he, along with his brother Raj Kumar, purchased land measuring 48 kanals and 1 marla from Harish Chander and Rama Luthra vide registered sale deed dated 25.05.1998. It was specifically recited in the said sale deed that a three-*gattha*-wide passage, marked 'ABCD' in the site plan, existed and provided access from the main road to the residential house of the plaintiff. The plaintiff asserted that he has been continuously, openly, and peacefully using the said passage for more than three decades without any obstruction or interference from any quarter.

2.2. It was further pleaded that the land belonging to the defendants is situated adjacent to the aforesaid passage and that the defendants, acting in collusion with one another, have unlawfully attempted to interfere with the plaintiff's peaceful user and enjoyment thereof. It was specifically alleged that the defendants illegally encroached upon and merged the portion of the passage marked 'EFGH' into their own land, thereby obstructing and impairing the plaintiff's right of access. Consequently, the present suit came to be instituted seeking the reliefs aforementioned.

3. The respondents–defendants contested the suit by raising various preliminary objections, *inter alia*, questioning the *locus standi* of the plaintiff, alleging concealment of material facts, and disputing the maintainability of the suit. On merits, the defendants categorically denied



that the plaintiff had any right, title, interest, or concern whatsoever with the suit property. It was specifically pleaded that the passage in dispute is the exclusive property of the defendants and constitutes their personal passage, which is being continuously used by them for ingress and egress to their agricultural fields.

3.1. The defendants further asserted that they had lawfully purchased one-half share in the said passage from its previous owners and, therefore, possessed exclusive proprietary as well as possessory rights therein. It was additionally contended that the plaintiff had an independent and alternative access passage leading from Village Bahadur Pur to his dera and, consequently, had no legal necessity, right, or entitlement to use the passage in dispute.

4. Upon appreciation of the pleadings, oral testimonies, and documentary evidence adduced by the respective parties, the learned trial Court decreed the suit in favour of the plaintiff. Aggrieved against the said judgment and decree, the respondents–defendants preferred an appeal before the learned First Appellate Court.

4.1. The learned First Appellate Court, vide judgment and decree dated 23.04.2026, allowed the appeal and reversed the findings recorded by the learned trial Court. The learned Appellate Court concluded that the passage in dispute was under the exclusive ownership and possession of the defendants and further held that the plaintiff had failed to establish any legal right or entitlement to use the said passage.



5. Feeling aggrieved by the judgment and decree passed by the learned First Appellate Court, the appellant–plaintiff has instituted the present RSA before this Court.

6. I have heard learned counsel appearing on behalf of the appellants at considerable length and have bestowed anxious, thoughtful, and careful consideration upon the submissions advanced by him, while also examining the pleadings of the parties, the entire evidentiary material available on the record, and the concurrent findings returned by the learned Courts below.

7. A clear, categorical, and unequivocal finding has been recorded by the learned First Appellate Court to the effect that, in the Jamabandis Ex.P3 and Ex.P4, the passage in dispute stands recorded in the ownership of the defendants and is further reflected therein as a public passage. The learned First Appellate Court has rightly held that a mere recital contained in the sale deed Ex.P5 would not, by itself, confer any enforceable legal right upon the plaintiff to use the passage in dispute, particularly when the plaintiff has failed to adduce any cogent evidence establishing that his vendors possessed any legally recognizable right to use the said passage.

7.1. It has further been rightly observed that there exists no rebuttal to the entries contained in Jamabandis Ex.P3 and Ex.P4, to which a statutory presumption of truth attaches under Section 44 of the Punjab Land Revenue Act. Furthermore, the plaintiff has not claimed any right of user over the passage on the basis of an easementary right. It is a settled



proposition of law that a claim founded upon easement necessarily requires specific pleadings as well as substantive evidence establishing the essential ingredients constituting such right.

7.2. Learned counsel for the appellants has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in ***Manjula and Others vs. Shyamsundar and Others, 2022 (3) SCC 90***, wherein it was held that a judgment of the Appellate Court must reflect conscious application of judicial mind and must record findings supported by cogent reasons in respect of all issues arising for determination, including the contentions advanced by the parties. However, a careful perusal of the judgment passed by the learned First Appellate Court in the present case clearly demonstrates that detailed findings have been recorded on every material aspect of the controversy and each contention raised by the parties has been meticulously examined and dealt with by assigning proper, cogent, and legally sustainable reasons based upon due appreciation of the evidence on record.

7.3. Learned counsel for the appellants has further relied upon the judgments rendered by this Court in ***Mukhtiar Kaur vs. Sita Singh, 2002 (1) RCR (Civil) 247; Aatma Ram vs. Om Pal, 2003 (3) RCR (Civil) 91; and Malook Singh and Others vs. Fauja Singh and Others, Law Finder Document ID #23201845***. However, in all the aforesaid cases, the plaintiffs had specifically founded their claims on the acquisition and existence of easementary rights and had accordingly pleaded and attempted to establish the same through evidence. In contradistinction



thereto, the plaintiff in the present case has neither specifically pleaded acquisition of an easementary right nor led any evidence in support thereof. The learned First Appellate Court has elaborately considered this aspect and has rightly held that civil suits are to be adjudicated strictly on the basis of pleadings and evidence adduced by the parties.

7.4. From the material available on record, there is nothing to substantiate the contention of the appellant-plaintiff that he possesses any legally enforceable right to use the passage in question. A mere recital in the sale deed concerning the existence of a passage cannot, *ipso facto*, vest the appellant-plaintiff with a legal right to use a passage which, on the basis of the evidence on record, stands established to be under the ownership and possession of the respondent-defendants. Significantly, the appellant-plaintiff has not specifically pleaded acquisition of any easementary right, whereas the respondent-defendants have specifically asserted that the appellant has an alternative passage available for access to his house. However, in the absence of proper pleadings on the issue of easementary right, the said question did not arise for adjudication before the learned Courts below.

7.5. Therefore, upon an overall consideration of the pleadings, documentary evidence, and findings recorded by the learned First Appellate Court, this Court finds no illegality, perversity, or jurisdictional infirmity warranting interference with the well-reasoned judgment passed by the learned First Appellate Court. Consequently, the instant appeal, being wholly devoid of merit, is hereby **dismissed**.



8. In view of the fact that the principal matter stands finally adjudicated, all pending miscellaneous applications, if any, shall also stand disposed of accordingly. No further orders are required to be passed in that regard.

27.05.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

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