



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

**RSA No.3310 of 2023 (O&M)
Date of Decision: 03.02.2026**

Baldev Singh

..... Appellant-plaintiff

Versus

Municipal Council, Kapurthala

..... Respondent-defendant.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Namit Gautam, Advocate
for the appellant-plaintiff.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to the judgment and decree dated 01.08.2023 passed by the Court of learned District Judge, Kapurthala (**hereinafter to be referred as “First Appellate Court”**), whereby an appeal preferred by the appellant-plaintiff against the judgment and decree dated 17.01.2020 passed by the Court of learned Civil Judge (Junior Division)-IV, Kapurthala (**hereinafter to be referred as “trial Court”**), in his suit for permanent injunction, was dismissed; thereby affirming the judgment and decree passed by the learned trial Court.

[2] Briefly stating, the appellant-plaintiff filed a suit for permanent injunction to the effect that he was owner of the suit land as detailed in the head note of the plaint as well as shown in the site plan. It was pleaded that since he (plaintiff) was the owner of the said land, thus, no relief was claimed against his brother Jagbir Singh who was merely recorded as owner in the said

Khasra number; however, had already disposed off the area more than his entitlement in the above said Khasra number that is why he was impleaded as party. It was further pleaded that the respondent-defendant had cut off the 'L' share area as a passage to be used by persons residing in a private colony falling on north-east side of the area despite the fact that the area falling under the Khasra No. 4826 was exclusively owned by the plaintiff and neither the defendant nor any person residing in the locality situated on northern-eastern side shown in the site plan had got any legal right to use that 'L' shape area, as there were roads earmarked clearly for the entire area as shown in the site plan; four in number of 20 feet each. It was also pleaded that the plaintiff never consented to respondent-defendant to convert his private land as public passage. Moreover, it was pleaded that since there were four roads already available, at the instance of plaintiff and his brother Jagbir Singh, who developed this residential area in the land owned by them; therefore, the defendant had no right to convert the 'L' shape area to be a public passage out of the land exclusively owned by the plaintiff. It was also averred that the plaintiff had already filed a suit pertaining to Khasra No.4844 which was dismissed in default impleading Municipal Council also a party and was yet to be restored but the same pertained to different Khasra number. Hence the present suit was filed.

[3] Upon notice, the respondent-defendant appeared and filed written statement taking preliminary objections regarding maintainability of the suit and inter alia prayed for dismissal of the suit.

[4] Replication to the written statement was filed on behalf of the respondent plaintiff in which all the facts pleaded by the defendant in the

written statement were denied and those pleaded in the plaint were reiterated by the appellant-plaintiff.

[5] On the basis of pleadings of the parties, the trial Court framed the following issues:-

- “1. *Whether the plaintiff is entitled to the relief of permanent injunction as prayed for? OPP*
2. *Whether the plaintiff has not served notice U/s 49 of Punjab Municipal Act, 1911 upon the defendant before filing the present suit? OPD*
3. *Whether the plaintiff has not come to the court with clean hand and has suppressed the material facts from this Hon’ble Court? OPD*
4. *Whether the plaintiff has got no locus standi or cause of action to file the present suit? OPD*
5. *Whether the Suit is bad for mis-joinder and non-joinder of necessary parties? OPD*
6. *Whether suit of the plaintiff is time barred? OPD*
8. *Relief. ”*

[6] The trial Court, vide its judgment and decree dated 17.01.2020, dismissed the suit of the appellant-plaintiff.

[7] Aggrieved thereof, the appellant-plaintiff filed the first appeal, which also came to be dismissed vide judgment and decree dated 01.08.2023 passed by the learned First Appellate Court. Hence, the present appeal.

[8] Impugning the aforesaid judgments and decrees dated 17.01.2020 and 01.08.2023 passed by both the Courts below, learned counsel submits that as per *jamabandi* for the year 2010-11 (Exhibit P-2), the appellant-plaintiff was owner in possession of the land as shown in site plan (Exhibit P-1), therefore, the respondent-defendant was not competent to earmark a street in the land owned by the appellant-plaintiff. Learned counsel further submits

that in fact, sanction in terms of Section 170 (C) of Punjab Municipal Act, 1911 was required for laying a new street which was not been obtained by the respondent-defendant in the present case; thus, the respondent-defendant was having no legal right to earmark any street in the land owned by the appellant-plaintiff.

No other argument has been raised on behalf of the appellant-plaintiff.

[9] After hearing learned counsel for the appellant and having gone through the paper-book / records, I am unable to find substance in the submission(s) made on behalf of the appellant-plaintiff.

[10] In the present appeal, claim of the appellant is that the land situated at Peer Chaudhary Road, Kapurthala falling in khasra No.10787/4826/10-4 and 4825/2-19 comprised in Khewat/Khatauni No. 1510/1468/2153 and as shown in green colour in 'L' shape in the scaled site plan, was his ownership, therefore, the respondent-defendant be restrained from laying premix/cement on the said land. Admittedly, the above mentioned khasra number has been held to be in *Gair Mumkin Abadi* as per the jamabandi of the year 2010-11 placed before the trial Court as Exhibit P-2. The appellant-plaintiff himself, while appearing as PW-1 admitted that there were four roads left in that colony, out of which three roads were bricked but one road was yet to be constructed. The appellant-plaintiff also admitted that the sewerage line was laid by the committee along with electricity line and the above mentioned Khasra number does not figure in the *Jamabandi* i.e. Exhibit P-2. The appellant-plaintiff even failed to prove on record any documentary

evidence that the suit property was never left as passage, rather the same was reserved as exclusive ownership of appellant-plaintiff himself.

In his cross-examination, the appellant-plaintiff also admitted that the colony developed by him and his brother was unregistered and except the site plan prepared by him, no other document like *jamabandi* from which it could be established on record that the subject land was under his exclusive ownership and not used as a passage was produced. Rather, it is evident from the record that the respondent-defendant after getting the estimate of original work etc. floated the tender and thereafter carpeted the 'L' shape passage by putting premix material, after treating the said passage as a public street, for the benefit of the residents of the locality as they had purchased plots from the appellant-plaintiff and thus, no harm was caused to the appellant-plaintiff in any manner.

[11] Accordingly, in view of the discussion made hereinabove, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below and there being no misreading or misinterpretation of either the pleadings or the evidence available on record; the present appeal, being devoid of merits, is hereby **dismissed**.

[12] Since, the main appeal has been decided / dismissed, no orders are required to be passed in the pending application(s) and the same shall stand disposed off.

February 03, 2026
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>