

2026:PHHC:005349



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

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**RSA-4050-2025 (O&M)
Date of decision :13.01.2026**

JAGIR SINGH AND ANOTHER**... APPELLANTS****VERSUS****PARGAT SINGH AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Rahul Sachdeva, Advocate
for the appellants.

PARMOD GOYAL, J.

1. Appellants–defendant No.1 and 2, being aggrieved by the concurrent findings of fact recorded by the Courts below vide the impugned judgment dated 11.05.2023 passed by the Additional Civil Judge (Senior Division), Bholath, and by judgment and decree dated 15.10.2025 passed by the District Judge, Kapurthala, whereby the suit for permanent injunction preferred by the plaintiff–respondent was decreed and the first appeal preferred by the defendants–appellants was dismissed, have preferred present appeal.

2. The plaintiff–respondent, by way of suit for permanent and mandatory injunction, sought removal of the illegal encroachment allegedly made by the defendants over the street duly described in the plaint. The case set up by the plaintiff is that the street in question was originally 16 feet wide; however, the defendants have encroached upon the same and are continuing such

encroachment, thereby they have reduced its width to about 6/7 feet. It was asserted that on account of the said encroachment, the plaintiff is unable to take his vehicle through the street, causing hindrance in his day-to-day life. Accordingly, the plaintiff sought removal of the illegal encroachment as well as a decree of permanent injunction against the defendants.

3. Despite service of notice, defendant Nos. 3 and 4 did not contest the suit and were proceeded against ex-parte. Defendant Nos. 1 and 2, however, contested the suit by raising various preliminary objections, regarding maintainability of the suit. It was pleaded that several persons had encroached upon the street in question and that even the plaintiff himself is an encroacher, and that the suit had been filed with an ulterior motive merely to harass the defendants. It was specifically denied that defendant Nos. 1 and 2 had encroached upon any part of the street.

4. In order to prove the encroachment, the plaintiff primarily relied upon the testimony of PW-2 Pankaj Gadwal, the Halqa Patwari, and PW-3 Parveen Kumar Kanungo (retired), who had carried out demarcation of the street in question and found that the same stood encroached upon by defendant Nos. 1 and 2. Defendant Nos. 1 and 2 appeared as DW-1 and DW-2 respectively and denied the allegations of encroachment. They also examined the wife of defendant No. 2 as DW-3 and one Nima @ Nirmal as DW-4.

5. Both the Courts below have found that the ownership of the land comprising Khasra Nos. 179/0 Marla and 175/0-9 Marla vests in the Nagar Panchayat and that the property is neither owned by the plaintiff nor by the defendants. On the basis of the demarcation report Ex. PW-2/A, duly proved through PW-2- and PW-3, it has been concurrently held that defendant Nos. 1 and 2 have encroached upon 4 Marlas and 6 Sarsahi of the street, forming part of Khasra No. 170/9-12. Apart from the encroachment made by defendant Nos. 1

and 2, the revenue authorities, while carrying out the demarcation, had also noticed encroachment by other persons, namely Surinder Singh and Mehanga Singh.

6. The demarcation report prepared by the revenue authorities was duly relied upon by the learned Courts below. The Courts have also taken into consideration the admissions made by the witnesses examined by the defendants, in particular, DW-2, DW-3 and DW-4 who had admitted that the width of the disputed street at the spot is 16 feet. These admissions, read along with the demarcation report, which clearly notes reduction of the street width to about 10 feet due to encroachment, conclusively establishes encroachment over the public street.

7. In view of the above evidence, no fault can be found with the conclusion drawn by the Courts below that defendant Nos. 1 and 2 have encroached upon the public street. The findings recorded are based on proper appreciation of oral and documentary evidence and do not suffer from any perversity.

8. Learned counsel for the defendants–appellants argued that other persons, including the plaintiff, have also encroached upon the street. However, two wrongs cannot make one right. A public street cannot be encroached upon by any person, and once it is established that the defendants–appellants have made encroachment, the same cannot be justified on the plea that others have also encroached. If any other person has encroached upon the street, it is always open for Gram Panchayat or any authority or any user of street to seek removal of such encroachment in accordance with law, but the same cannot legalise or justify the encroachment made by the defendants–appellants.

9. No substantial question of law arises for consideration in the present appeal. The appeal is devoid of merit and is accordingly dismissed.

10. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

13.01.2026
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(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No