



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-1961-2024 (O&M)

Date of Decision: 06.02.2025

SHISHPAL ALIAS SHISHPAL SINGH AND ORS

.....Appellants

Vs.

GRAM PANCHAYAT VILLAGE HARIGARH TEHSIL RAJPURA DISTRICT PATIALA  
THR. ITS SARPANCH SANT SINGH AND ORS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. Dhanvinder Singh Nigha, Advocate  
for the appellants.

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**DEEPAK GUPTA, J.**

By way of present Regular Second Appeal, plaintiffs of the case have approached this Court against the judgment and decree dated 15.05.2024 passed by the First Appellate Court, affirming the judgment and decree dated 21.08.2018 of the trial Court, whereby the suit of the plaintiffs-appellants seeking decree for permanent injunction regarding property in dispute, was dismissed.

2.1 Claiming to be owner in cultivating possession of the suit land, plaintiffs alleged interference therein on the part of defendants. It was alleged that defendants wanted to make a drain in the suit land so as to pass rainy water of the Village and that of surrounding villages and in case they succeed in doing so, it will cause damage to the crop of the plaintiffs. It was further claimed that a kacha passage adjoining to the suit land leads towards the minor distributory and there was a big *saifal* near khasra No.333 & 334 for crossing the rainy water of the adjoining villages. There were two *pullies* in the said kacha passage, constructed by defendants No.1 and 2, which exist for the last more than 25 years back and that rainy water passes through the said *pullies* smoothly, but defendants want to remove those *pullies* with *mala fide* intention.



2.2 Defendants contested the suit by alleging that plaintiffs themselves had blocked the *pullies* in question by getting installed a bore illegally and forcibly and by putting the earth soil in front of the *pullies*, which were existing for the last 65 years and that it is due to blockage of *pullies* that drainage of water towards the Miranpur drain through *pullies* had been stopped. It was claimed by the defendants that neither they have any concern with the land of the plaintiffs' nor they ever interfered in their possession and rather, the dispute is only regarding the *pullies*, which are existing adjoining the *khal*, which is further adjacent to the canal.

2.3 Necessary issues were framed. Evidence produced by the parties was taken on record. Trial Court dismissed the suit on 21.08.2018. Appellate court affirmed the findings in the appeal filed by plaintiffs.

3. Assailing the findings, it is contended by Id. Counsel that evidence on record has not been properly appreciated by the courts below.

4. Heard. The First Appellate Court, while dismissing the appeal on 15.5.2024 observed as under:-

"14. At this juncture, it is pertinent to discuss cross-examination of PW1 Shishpal, who in his cross-examination has admitted that in case, if there is obstruction in the drainage of water, it is responsibility of Gram Panchayat. He further admitted that rainy water of village Harigarh from very beginning is flowing through his fields. He has stated that he has no objection if it continues to drain through his field. He admitted that members of Gram Panchayat has come to request him regarding obstruction in the flow of rain water. He admitted that there are two pipes installed in his fields and third pipe is at some distance under Pulli. He denied if Gram Panchayat filed any application Annexure D1 or D2 against him. He stated that Gram Panchayat might have passed resolution. He has stated that he has no objection if earth is removed from the pipes to clear obstruction for ensuring free flow of water since the drainage is taking place in this manner for the last 60/70 years. He admitted that site plan Ex.D1 is correct as per the spot. He admitted that water drains ABCDEFGH and HIJK are correct as per spot. He further stated that pipes Ex.P1 to Ex.P3



are also shown correctly as per the spot. However, he denied that he ever obstructed flow of water from the pipes.

15. PW2 Dharam Singh in his cross-examination has admitted pipes at points P1 to P3 to be correct and same are running from the last more than 40 years. He has admitted that water from the drain used to be exited from the pipes to other side of drain. He has further stated that he has no objection if any earth which is obstructing flow of water from the pipes is removed to ensure free flow of water. He further stated that these pipes are being used from the last 65 years for drainage of water.

16. PW3 Resham Lal in his cross-examination has stated that defendants never interfered into possession of plaintiffs nor tried to dispossess them. He has admitted that drainage of rain water is being run through Pullies. He further stated that pipes are being used for drainage before time of his birth may be 40/42 years back. However, he has feigned his ignorance about notice dated 20.6.2014 issued by BDPO to plaintiffs.

17. Although, photographs Ex.P1 to Ex.P10 have not been proved by plaintiffs as per Indian Evidence Act, but photographs are admitted by defendants to be of place of occurrence, but they have specifically deposed that photographs are old one and as of now, Pullies have been blocked by the plaintiffs. It appears that the plaintiffs under garb of present suit intend to stop co-villagers and Gram Panchayat from clearing the obstructions created by the plaintiffs in Pullies with an intention to block drainage of rain water from the Pullies. From the cross-examination of plaintiffs witnesses, it is admitted that there exists Pullies in the land of plaintiffs for more than 65 years from which rain water of village passes. Both PW1 Shishpal and PW2 Dharam Singh have stated that they have no objection if obstruction from the Pullies is removed to ensure free flow of rain water. Rather, plaintiff witness i.e PW3 Resham Lal has stated that defendants never interfered into land of plaintiffs and never tried to dispossess the plaintiffs. Thus, it is clear that intention of defendants is only to ensure free flow of water from the Pullies and nothing else to ensure safety of land of villagers. Thus, in view of above discussion, I do not find any illegality or infirmity in the findings recorded by trial court on issues no.1 and 3 and same are affirmed accordingly.”



5. It is apparent from the aforesaid observations made by the First Appellate Court, based upon the evidence produced on the file, that not only the plaintiffs but their own witnesses admitted that rainy water of the Village Harigarh was flowing towards the fields of the plaintiffs since beginning and that two pipes had been installed in the fields of the plaintiffs and third pipe was installed at the little distance under the pulli. Applications had also been moved by the Gram Panchayat against the plaintiffs. PW-1 even stated that he did not have any objection if earth is removed from the pipes to clear the obstruction for ensuring free flow of water since the drainage is taking place in this manner for the last 60/70 years. PW-1 had also admitted the correctness of the site plan (Ex-D1). The observations made by the First Appellate Court further reveal that under the garb of the present suit, plaintiffs intended to stop the co-villagers and Gram Panchayat from clearing the obstructions created by them in the pullies with an intention to block drainage of the rain water from the pullies. The existence of pullies in the land of the plaintiffs is admitted for the last more than 65 years, through which the rain water of village passes was proved on record.

6 In the aforesaid facts and circumstances, this Court does not find any ground to interfere in the well reasoned concurrent findings of facts as recorded by the Courts below. There is no illegality or perversity in the impugned judgments. As such, holding the present appeal to be devoid of any merit, the same is hereby dismissed.

06.02.2025

*Pry*

**(DEEPAK GUPTA)**

**JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No