



RSA-3082-2025 (O&M)

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

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RSA-3082-2025 (O&M)

Date of Decision: 05.09.2025

Satyadev

....Appellant

VERSUS

Bimla and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Gaurav Tyagi, Advocate, for the appellant.

AMARINDER SINGH GREWAL, J. (ORAL)

1. The instant regular second appeal has been preferred by the appellant-defendant No. 1 against judgments and decrees dated 25.07.2023 and 29.07.2025 passed by the learned trial Court and the learned 1st Appellate Court respectively whereby the suit for mandatory and permanent injunction has been decreed by the learned trial Court, which finding has been upheld by the learned 1st Appellate Court in appeal.

2. In brief, the facts are that plaintiffs have their residential house in village Barhi adjacent to a common gali comprised in Khewat No.716, Khata No.847, Rect. & Killa No.299 situated within the abadi area of village Barhi, Tehsil Ganaur, District Sonapat, which was constructed by the Gram Panchayat about 10-12 years ago. However, the defendants being powerful and strong headed persons and having political vendetta with plaintiffs, constructed their houses by encroaching upon the said common gali. Due to said act of defendants, passage through the said gali has been completely blocked. Plaintiffs also requested the Gram Panchayat defendant No.8 to



take action against defendants but no action was taken as members of Gram Panchayat also colluded with defendants. Despite repeated requests made to defendants to remove the encroachment and illegal constructions over the common gali, they did not pay any heed and hence, the present civil suit.

3. Defendant No.1 contested the suit by filing written statement, taking preliminary objections qua jurisdiction, maintainability, limitation. locus standi, plaintiffs not coming to court with clean hands and cause of action. On merits, it was submitted that plaintiffs have no locus standi to file the suit as they are neither the permanent residents of the village nor they have a residential house in village Barhi, except Santosh. The existence of the common gali was denied as the revenue record previously showed the suit land as rasta, which was later converted into water course as per requirement. Defendant No.1 built his house about 40 years ago and thus, prayed for dismissal of the suit.

4. Defendants No.2 to 7 filed their separate written statement stating therein that plaintiffs are not habitants of the village since a long time and have no right to file the present suit. They are in continuous and hostile possession of the suit land within the knowledge of the Gram Panchayat for more than 30 years.

5. Defendant No.8-Gram Panchayat filed separate written statement and besides taking preliminary objection, submitted that Killa No.299 is a bhana in the revenue record and the answering defendant is owner of the same. It was further stated that the answering defendant has filed an application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the Act of 1961) before the



SDO Civil Collector, Ganaur to get possession of the suit land, which is pending.

6. From the pleadings of the parties, learned trial Court framed as many as seven issues including relief. In support of their case, plaintiffs examined three witnesses and tendered documents viz; jamabandi for the year 2017-2018 as Ex.P1, demarcation as Ex.P2 and akshsijra as Ex.P3. On the other hand, defendants examined five witnesses and tendered following documents: -

Ex.D-1	:	Jamabandi for the year 2017-2018
Ex.DW3/A	:	Record of Survey of India
Ex.DW3/B	:	Copy of Register
Ex.DW-4/A:		Resolution dated 29.01.2013
Ex.DW-5/A:		Jamabandi for the year 2012-13
Ex.DW-5/B:		Jamabandi for the year 2017-18

7. On appreciation of oral as well as documentary evidence, the learned trial Court found that defendants have encroached upon the land belonging to the Gram Panchayat and the revenue record clearly established the ownership of Gram Panchayat and thus, decreed the suit. Two separate appeals preferred before the 1st Appellate Court by the defendant No.1 and defendants No.2 to 6 against the judgment and decree passed by the learned trial Court, have also been dismissed. However, appellant-defendant No.1 chose to file the present regular second appeal.

8. Learned counsel for the appellants-defendants No.1 submits that the demarcation of Killa No.299 as relied upon by the plaintiffs was got conducted by the plaintiffs, has no sanctity in the eyes of law, as Plot No.298, which belongs to defendant No.4 has not been taken into account at



the time of demarcation. Learned courts below have completely ignored the fact that plaintiffs have to establish their case, which they failed to do and thus, the suit ought not to have been decreed. Defendant No.5 had constructed his house more than 30 years ago and, therefore, both the Courts below have erred in relying upon the revenue record, which was not updated. Currently, the suit property is actually situated in abadi deh of village Barhi and the possession and ownership of defendant No.5 was always within the knowledge of the plaintiffs and defendant No.8-Gram Panchayat. The present suit is nothing but an outcome of political friction. It is also submitted that whether a passage is a public street within the definition of Section 2 (g)(4) of the Act of 1961 or a private passage is a question to be determined by the Collector under Section 11 of the Act exclusively and thus, jurisdiction of the Civil Court is barred. In support, reliance is placed upon the judgment passed by this Court in ***Surain Singh Vs. Gram Panchayat, Raipur Pirbuxwala 2000(4) RCR(Civil) 86.***

9. Having heard learned counsel for the appellants-defendants, this Court finds no merit in the present appeal. Had the revenue record was not updated, the defendants ought to have brought on record the updated revenue record to fortify their case that the suit property is currently an abadi deh and no common gali exists. On the other hand, PW2 Ashok Clerk, URK Branch DC Office and PW3 Partap Singh, retired Girdawar proved the demarcation got conducted by plaintiff No.3-Santosh wife of Mukesh Tyagi and the demarcation report Ex.P2 showed that encroachments were made by defendants on the suit land. Furthermore, at page No.10 of the demarcation report Ex.P2, it is recorded that defendant No.5 Rajesh, defendant No.7



Balister and Surrender, who is brother of defendant No.1 had refused to sign, which means they were present at the time of demarcation. Defendant No.5, who stepped into the witness box as DW2 has admitted in his cross-examination that demarcation of the disputed land was got conducted by plaintiffs. The judgment in Surain Singh (supra) is not applicable to the facts of the present case, as in the said case, it was the Gram Panchayat who filed the suit against Surain Singh, who put up a wall/gate in the street shown red in the site plan. In fact, in the aforesaid judgment, discussion is made to judgment passed by this Court in Bhagu and others Vs. Ram Sarup and others 1985 PLJ 366 wherein it was held that when the "lis" or "dispute" is between two private individuals, jurisdiction of the Civil Court is not taken away. In fact, learned 1st Appellate Court while dismissing the appeals preferred by defendant No.1 and defendant Nos.2 to 6, has also relied upon the judgment passed in Bhagu's case (supra).

10. It is trite law that in a dispute between private parties, the jurisdiction of the Civil Court is not ousted. Jurisdiction of the Civil Court is taken away when "lis" is between the Gram Panchayat and a private person. The case set up by the plaintiffs was that a thoroughfare/passage was in existence, which has been encroached upon by the defendants and, therefore, they be directed to clear the encroachment and further to be restrained from raising any construction thereon. Neither the relief sought in the suit by the plaintiffs was affecting interest or title of the Gram Panchayat nor the issue was whether the suit property vests with the Gram Panchayat or not.

11. As an upshot of above discussion, this Court finds no illegality and perversity in concurrent finding of fact rendered by both the Courts

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below, much less, no substantial question of law arises for consideration and thus, the same is upheld. Resultantly, the regular second appeal is dismissed.

12. Pending misc. application(s), if any, also stand disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

05.09.2025*anil*

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No