

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****115****RSA-98-2022 (O&M)****Date of Decision: 10.07.2025****SAWINDER SINGH @ SURINDER SINGH****.....APPELLANT****Vs.****JASWANT SINGH @ JASSA AND OTHERS****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. H.S. Dhindsa, Advocate  
for the appellant.

**\*\*\*\*\*****DEEPAK GUPTA, J.**

One of Plaintiffs of the case is before this Court in the present Regular Second Appeal against the concurrent findings of the Courts below, inasmuch as the suit filed by him along with 2 others (*proforma respondents N: 3 & 4 herein*) seeking decree for permanent injunction against defendants Jaswant Singh and another (*respondents N: 1 & 2 herein*) was dismissed by the trial Court on 16.01.2017; and the appeal filed by the said plaintiff was dismissed by the First Appellate Court on 04.12.2019, affirming the findings of the trial Court.

2. Assailing the aforesaid concurrent findings, learned counsel contends that evidence on record has not been properly appreciated by the courts below.

3. This Court has considered submissions of learned counsel and has appraised the paper-book.

4. Plaintiffs sought decree of permanent injunction to restrain the defendants from installing any door or window in the wall marked by point A to B, shown in the red colour in the enclosed site plan and from making any sort of drain in the street marked by point C to D. The claim of the plaintiffs was founded on the assertion that street in question is a private street being



used by them since the time of their forefathers, wherein defendants have no right and the same is not a thoroughfare. Defendants denied this assertion and contended that two gates of their house exist in the street and under the garb of the present suit, plaintiffs wanted to encroach upon a public street, illegally.

5. There are concurrent findings of the fact recorded by the Courts below to the effect that plaintiffs failed to prove the nature of the suit property as a private street. It will be relevant to reproduce the observation made by the First Appellate Court in this regard.

“6. As it becomes clear from the factual matrix of the case, the claim of the plaintiff-appellant for the relief of Permanent injunction is founded on the sole allegations of the street in question being a private street with which the defendants allegedly have got no concern. This being the situation, the onus to prove this crucial aspect of the case that the street in question is the private street of the plaintiffs, rested upon the plaintiffs and it is only proof of such aspect of the case that they can possibly be held entitled to any relief in the case, but going by the evidence as available on the record, there is nothing on the record to conclude that the street in question is infact a private street of the plaintiffs as claimed by them. In support of their claim, the plaintiffs had examined just four witnesses out of whom PW1 Sakattar Singh failed to turn up to undergo the acid test of cross-examination at the hands of the defendants and his testimony thus deserves no consideration at all. PW2 Mohan Singh has during the course of his cross-examination conceded to the version of the defendants while admitting as correct that Kawaljit Kaur and Mohan Singh and some others had included the street into their houses. To the same effect is the admission on the part of PW3 Kawaljit Kaur. In order to prove the street to be their private property, the plaintiffs were under a bounden duty to bring on record the title deeds of their property so as to prove the area actually purchased by them and covered by them under their house to contend that the surplus left out area is the street in question, but no evidence in that regard has seen the light of the day during the course of trial. Accordingly, on careful analysis of the evidence as available on the record, I am of the considered view that the



plaintiffs have not been able to prove the street in question to be their private property as claimed by them and the finding recorded to that effect by the learned lower court, thus calls for no interference in appeal and the appeal of the appellant is thus found to be devoid of merits which deserves to be dismissed.”

6. It is evident from the aforesaid observations that plaintiffs-appellant utterly failed to prove the nature of the suit property as a private street and as such, the Courts below rightly declined the relief of permanent injunction.

7. This Court does not find any ground whatsoever to interfere in the well-reasoned concurrent findings of the facts as recorded by the Courts below, which are based upon the proper appreciation of the factual and legal position.

No merits. Dismissed.

10.07.2025  
Pry

(DEEPAK GUPTA)  
JUDGE

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