



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

112

**RSA-193-2020 (O&M)  
Date of decision: 14.01.2025**

**NARENDER KUMAR AND ORS****..Appellants**

**Versus**

**LAJJAY RAM (DECEASED) THROUGH LRS. & ORS ..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sandeep Panwar, Advocate (through v.c.)  
for the appellants.

**ANIL KSHETARPAL, J(Oral)**

1. This is plaintiffs' regular second appeal against the concurrent findings of fact arrived at by the Courts below while dismissing their suit for grant of decree of permanent injunction.

2. The plaintiffs are owners in possession of a two storey house bearing No.212 situated in village Kakrana, District Rohtak. Outside their house, there is a platform, to which the plaintiffs claim ownership, whereas, the defendants claim that the property in dispute is part of public street. It has come on record that the predecessors of the plaintiffs purchased the property vide sale deed Ex.D-1. On 02.09.1992, a decree was passed in favour of plaintiffs father. In the aforesaid litigation, dimensions and size of the plot were furnished and it was found that the plot measures 50 feet and 6 inches towards East, 51 feet 6 inches towards West, 10 feet towards North and 11 feet towards South. The total area of plot comes to 60 square yards, whereas, now the plaintiffs are in possession of platform measuring 57 feet in East, 64 feet in West, 10 feet in North and 11 feet in South. Thus, the Courts have held that the plaintiffs have failed to explain as to how the size of the platform increased with the passage of time.



3. Learned counsel representing the appellant has made the following two submissions:-

i. The Civil Court has no jurisdiction in view of provisions of Punjab Village Common Lands (Regulation) Act, 1961.

ii. In the writ petition filed by certain owners, the Deputy Commissioner has filed affidavit that demarcation of land is not possible.

4. This Court has considered the submissions of learned counsel for the appellants and finds no merit.

5. First of all, before the Courts below, it was not the case of the plaintiffs that the Civil Court has no jurisdiction. Moreover, the dispute is with regard to encroachment of a public street. Hence, the plaintiffs after having suffered decree in the two Courts cannot change their stand in entirety and claim that the Civil Court has no jurisdiction particularly when they filed the suit and invoked the jurisdiction of the Civil Court.

6. Moreover, the affidavit of Deputy Commissioner is not part of the record, hence, the same cannot be considered. Even during the pendency of regular second appeal, the affidavit of the Deputy Commissioner has not been produced.

7. Hence, no ground to interfere is made out.

8. Dismissed accordingly.

9. All the pending miscellaneous applications, if any, are also disposed of.

January 14<sup>th</sup>, 2025

(ANIL KSHETARPAL)  
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No