

Bhup Singh and others vs. Janku (since deceased)  
through LRs and others

**CMP No. 3924 of 2019**

**06.09.2024**      **Present:** Mr. Bimal Gupta, Senior Advocate with Ms. Kusum Chaudhary, Advocate, for the applicants/appellants.

Mr. H.S.Rana, Advocate, for respondent No.1.

Mr. Raj Kumar Negi, Additional Advocate General, for respondents No. 2 and 3.

Predecessor-in-interest of the respondent had filed a suit for declaration claiming to be owners of the suit land. The suit was decreed and the appeal preferred against the same by the State was dismissed. The present application seeking leave to appeal, in the case at hand, has been filed by Bhup Singh, Om Prakash, Bhupender and Nirmla Devi claiming to have easementary rights of passage through the suit land.

According to present applicants/appellants, the respondents, in the case at hand, post being declared owners of the suit land have blocked the passage over the suit land. Therefore, the present application seeking leave to file an appeal has been filed by them. Prima facie the same appears to be not maintainable as in the case of blockage of a right of passage/easementary rights over the suit land which is being claimed by the present applicants by way of a prescriptive easement remedy normally should have been by way of filing a separate suit within the time prescribed under the Limitation Act.

Learned counsel for the applicants seeks time to address qua the maintainability of the present application/appeal.

As prayed, list after four weeks.

**(Bipin C. Negi)**  
**Judge**

**September 06, 2024** (Nisha)