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RSA-1537-2026 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1537-2026 (O&M)
Date of decision: 23.04.2026

Vijender Jain and others

...Appellants

Versus

Jasvinder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. V.P. Sangwan, Advocate for the appellants.

DEEPAK GUPTA, J. (ORAL)

The plaintiffs, having failed before both the learned Trial Court as well as the learned First Appellate Court, have approached this Court by way of the present Regular Second Appeal impugning the concurrent findings, whereby their suit for permanent injunction has been dismissed.

2. The case of the plaintiffs, in brief, was that one Hardev Singh, while alienating portions of land comprised in khasra No. 322//19 in the year 1991, had left a passage measuring 3 karam in width in the middle of the said khasra for the purposes of ingress and egress. The plaintiffs claim to have stepped into the shoes of the original vendees through a series of subsequent transfers culminating in a sale deed dated 18.11.2015, and on that basis asserted a right to use the said passage. Alleging that the defendant, who had subsequently purchased a portion of land in the same khasra, was attempting to obstruct the said passage, the suit for permanent injunction came to be filed.

3. The defendant contested the suit by specifically denying the existence of any such passage. It was pleaded that neither the revenue record nor any municipal record reflected the existence of the alleged rasta



and that Hardev Singh, after executing the sale deeds in 1991, had no subsisting share sufficient to carve out any such passage. It was further pleaded that the plaintiffs' property abuts the main road and no such passage was ever in existence or required.

4. Upon appreciation of evidence led by the parties, the learned Trial Court dismissed the suit on 21.08.2017. The appeal preferred by the plaintiffs was also dismissed by the learned First Appellate Court on 03.02.2026, which while formulating a specific point for determination regarding existence of the passage, affirmed the findings of the Trial Court.

5. I have heard learned counsel for the appellants and have gone through the judgments of both the courts below with his assistance.

6. At the outset, it needs to be emphasised that the jurisdiction of this Court under Section 100 of the Code of Civil Procedure is confined to substantial questions of law. Interference with concurrent findings of fact is not warranted unless such findings are shown to be perverse, based on misreading of evidence or contrary to settled legal principles.

7. In the present case, the entire claim of the plaintiffs hinges upon an alleged agreement dated 16.05.1991 said to have been executed by Hardev Singh creating a passage. However, both the courts below have concurrently found that after execution of the sale deeds dated 21.03.1991 and 16.05.1991, Hardev Singh was left with only a negligible portion of land in khasra No. 322//19, which was wholly insufficient to carve out a passage of the dimensions claimed by the plaintiffs. This finding is borne out from the documentary evidence on record and does not suffer from any infirmity.

8. The legal consequence of this factual position has also been correctly appreciated by the learned First Appellate Court by applying the



well-settled principle that no person can convey a better title than what he himself possesses. Once it is found that Hardev Singh did not retain sufficient interest in the property, any alleged creation of passage by him becomes legally unenforceable.

9. Another significant circumstance, which goes to the root of the matter, is that the alleged stipulation regarding the passage does not find mention in the registered sale deed executed on the same date, though the parties and attesting witnesses are common. In property transactions, particularly those affecting rights in immovable property, omission of such a vital condition from the registered instrument seriously undermines the authenticity of the subsequent plea based on an unregistered agreement.

10. Further, the plaintiffs have failed to substantiate the existence of the alleged passage through any independent or contemporaneous record. There is no entry in the revenue record, no sanctioned site plan, and no municipal document reflecting the existence of such a rasta. The absence of such corroborative material assumes importance, especially when the claim relates to a right of passage over land forming part of a joint holding.

11. The plea of user of the passage by the plaintiffs or by third parties such as telecom companies has also not been established in accordance with law so as to constitute either an easement by grant or by prescription. Mere assertions, unsupported by cogent evidence, cannot be made the basis for conferring a legal right.

12. It is also noteworthy that the plaintiffs did not implead all the necessary parties, including other co-sharers, thereby rendering the suit defective from the standpoint of proper adjudication of rights in joint property.



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13. The findings recorded by both the courts below are thus based on a proper appreciation of pleadings and evidence and are in consonance with settled principles of law. No perversity, illegality or misreading of evidence has been pointed out which may warrant interference by this Court.

14. In the considered opinion of this Court, no substantial question of law arises for determination in the present appeal.

15. Consequently, the present Regular Second Appeal is dismissed. The judgments and decrees passed by the courts below are affirmed. No order as to costs.

23.04.2026

Yogesh

**(DEEPAK GUPTA)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**