

**IN THE HIGH COURT OF HIMACHAL PRADESH  
SHIMLA**

**Regular Second Appeal No.261 of 2006.**

**Date of decision: 26.10.2006**

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**Jiwan Singh**

**....Appellant**

**Versus**

**Smt.Dolma Devi and Others.**

**....Respondents.**

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*Coram*

**The Hon'ble Mr.Justice Surjit Singh,J.**

*Whether approved for reporting ?<sup>1</sup>*

**For the Appellant:                Mr.G.R. Palsra, Advocate.**

**For the Respondents:        Mr.Lakshay Thakur, Advocate.**

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**Surjit Singh,J.(Oral)**

Heard and gone through the record.

Appellant-plaintiff filed a suit for permanent prohibitory injunction restraining the respondents-defendants from causing any obstruction in the passage shown by letters 'A' to 'B' which according to him runs through Khasra No.379/100 and serves as an approach to his house and shop standing on Khasra No.386/99.

Suit was contested by respondents-defendants and it was alleged that no passage connecting the property of the plaintiff with the main path runs through his land. The respondents-defendants even denied

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<sup>1</sup> *Whether the reporters of Local Papers may be allowed to see the judgement?*

the existence of the house or shop of the plaintiff in Khasra No.386/99.

Trial Court, after recording the evidence adduced by the parties, concluded that the path shown by letters 'A' and 'B' and claimed to run through the property of the defendants in-fact existed on Khasra No.386/99 owned by the plaintiff himself and consequently, dismissed the suit.

Appeal filed by the plaintiff in the Court of District Judge has also been dismissed.

The contention raised by the appellant-plaintiff is that when the two courts have said that there exists a path shown by letters 'A' and 'B', the suit of the plaintiff-appellant ought to have been decreed even though the path has been found to exist on the plaintiff's own land bearing Khasra No.386/99. I find no merit in the contention. As already noticed, the plaintiff's contention was that the said path runs through the adjoining land owned by the respondents-defendants. The site plan which was attached with the plan, i.e. Ex.PW-3/A, also indicated that the passage runs through Khasra No.379/100. However, plaintiff's own witness, namely, PW-3 Amar Chand, retired Kanongo, testified that the passage runs through the plaintiff's own property bearing Khasra No.386/99.

In view of the above-said position as also the fact that no substantial question of law arises, the appeal is dismissed.

CMP No.417 of 2006.

Infructuous.

October 26, 2006  
(aks)

( Surjit Singh )  
Judge.