

*Form No: HCJD/C-121.*  
**JUDGEMENT SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

Civil Revision No. 02 of 2015

Saghir Ahmed, etc.

Vs.

Mst. Maroof Jan, etc.

PETITIONERS BY: Sardar Muhammad Aftab,  
Advocate.

RESPONDENT BY: Mr. Gul Hassan Jadoon,  
Advocate.

Date of Hearing: 27.08.2019.

**ATHAR MINALLAH, C.J.-** The petitioner has invoked the revisional jurisdiction of this Court assailing judgments and decrees, dated 31.05.2013 and 15.02.2013, rendered by the learned Appellate Court and the learned trial Court, respectively.

2. The facts, in brief, are that the petitioners filed a civil suit on 28.11.2005 seeking declaration, permanent, temporary and mandatory injunction. The petitioners asserted in the plaint that they were owners in possession of land measuring one kanal in Khasra no. 1028 in the revenue estate of Mauza Mohra Noor, Islamabad. It was further asserted that the petitioners were also owners in possession of land measuring six marlas in Khasra no. 1017. The dispute is regarding a common passage adjacent to the house where the

petitioners are residing. It was the case of the petitioners that the path/passage used by the residents of the area was being encroached by the respondents. The suit was contested by the respondents and out of divergent pleadings, the learned trial Court framed seven issues. After recording of evidence and affording opportunity of hearing to the parties, the learned trial Court dismissed the suit vide judgment and decree, dated 15.02.2013. The petitioners assailed the said judgment and decree but the appeal did not find favour with the learned Additional District Judge, East-Islamabad since it was dismissed vide judgment and decree, dated 31.05.2013. The petitioners have assailed concurrent findings recorded by two competent Courts.

3. The learned counsel for the petitioners has contended that the judgments and decrees have been rendered on the basis of misreading/non reading of the evidence. The learned counsel has drawn the attention of this Court to a document which was exhibited as Ex-P/1 in support of his contention that it clearly shows that land measuring 3 kanals and 10 marla situated in Khasra no. 1028 was being used for path/passage. He has further stated that a separate suit was also filed in which a preliminary decree, dated 02.07.2013, was passed which further shows that a path/passage existed as was asserted by the petitioners.

4. The learned Counsel for the respondents, on the other hand, has argued that; the concurrent findings do not suffer from misreading or non reading nor any other legal infirmity has been pointed out; both the Courts have taken into consideration all the

relevant matters; the existence of passage/path adjacent to the petitioners' house is not denied while the dispute is regarding its width; the passage/path is not more than five feet wide while the petitioners' claim that it used to be twelve feet. The petitioners had failed to establish their claim and, therefore, the suit has been rightly dismissed.

5. The learned counsels have been heard and the record perused with their able assistance.

6. The existence of passage/path adjacent to the house of the petitioners is not denied by the respondents. However, the dispute is regarding width of the said passage/path. The onus to establish that the path/passage was twelve feet wide and that it had been encroached was on the petitioners. The latter were not able to bring any cogent and reliable evidence on record to establish this claim. The document i.e. Ex-P/1 referred to by the learned counsel for the petitioners has no relevance because it is not sufficient to establish the width of the passage/path and its encroachment. The concurrent findings are well reasoned and do not suffer from any legal infirmity in order to warrant interference by this Court while exercising revisional jurisdiction.

7. For what has been discussed above, this petition is without merit and is, therefore, accordingly dismissed.

**(CHIEF JUSTICE)**