

Rajasthan High Court

Lal Chand vs Udai Ram on 3 July, 2009

In The High Court Of Judicature For Rajasthan  
Bench at Jaipur  
SB Civil Second Appeal No.530/04  
Lal Chand v. Udai Ram & another

Date of judgment  
Hon'ble JR Goyal, J.

3.7.09

Mr. Rohan Jain, for appellant  
Mr. Chetan Jain for Mr. RP Vijay, for respondents

This is plaintiff's second appeal under S.100 CPC.

2. Brief facts, giving rise to this appeal are that the plaintiff filed a suit for permanent injunction, with the averments that Motia Bai is the owner of agricultural land measuring 13 bigha 17 biswa bearing khasra no.214 in village Kamkhidi, and plaintiff being power of attorney holder of Motia Bai, is looking-after the said land. Further it was the case of plaintiff that the way/path to approach his agricultural land, is situated in between khasra nos.208, 210 and khasra nos.211, 215 which was being used by him since last fifteen years regularly. It was also pleaded that after purchasing the lands bearing khasra nos.211 and 215 by defendant-respondent no.1 and defendant-respondent no.2-wife of respondent no.1, from the original owners, they had tried to destroy and block the path/way leading to the agricultural land of plaintiff and restrained him from approaching his fields through the existing way/path by planting three Orange trees and one Shehtut plant there.

3. Respondents, in their written-statement have denied that there was any way/path existed in between khasra nos.khasra nos.208, 210 and 211, 215.

4. The trial court framed issues and after recording evidence and hearing the parties, dismissed the plaintiff's suit. First appeal filed by the plaintiff-appellant was also dismissed , hence this second appeal.

5. Heard learned counsel for the appellant. It was, inter alia, contended that the trial court and first appellate court have not considered the evidence in right perspective, therefore, the impugned judgments are perverse in the eye of law.

6. I have considered the said submissions and perused the judgments of the courts below and am of the view that both the courts having considered the material available on record and arrived at a concurrent finding of fact and there is no perversity in the same. No substantial question of law arise in this second appeal. Consequently, this second appeal, along with the stay application, is dismissed at the admission stage.

(JR Goyal) J.

db