

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR No.1346 of 2015
Date of Decision:25.02.2015**

Sanjay Jain and another

. . . . Petitioner

Vs.

Municipal Council, Gurgaon

. . . .Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Prateek Rathee, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioners are aggrieved against the order dated 3.1.2015 by which application filed by the petitioners/plaintiffs to decree the suit in terms of Order 12 Rule 6 of the Code of Civil Procedure, 1908 [for short 'the CPC] has been declined.

Learned counsel for the petitioners has vehemently argued that once the defendant had admitted the possession of the petitioners over the land in dispute, the learned Court below should have decreed the suit without any trial. In this regard, he has drawn the attention of the Court to the prayer made in the plaint and para No.2 of the preliminary objection of the reply to the written statement.

I have heard learned counsel for the petitioners and after examining the record, am of the considered opinion that there is no merit in his arguments because the petitioners have not come to the Court seeking injunction only on the basis of their

possession but have also claimed that they are owner of the property in dispute. This fact is categorically denied in para No.2 of the preliminary objection filed by the defendant and only the possession has been admitted that too unauthorised.

In these circumstances, the suit filed by the petitioners cannot be decreed in view of Order 12 Rule 6 of the CPC because there is no admission of all the ingredients of the suit of the plaintiffs by the defendant.

Dismissed.

25.02.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**