

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

RSA No.4927 of 2009 (O&M)

Date of decision : 10.12.2015

Nirmala Devi & ors.

...Appellants

Versus

Municipal Council, Zirakpur, District Mohali and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: None for the appellants.

Mr. Sandeep Khunger, Advocate with
Ms. Sagina Walyat, Advocate for respondent Nos.1 and 2.

AMIT RAWAL, J. (Oral)

The appellants-plaintiffs are in Regular Second Appeal against the concurrent findings of fact, whereby suit for permanent injunction filed in the representative capacity seeking the restraint order against the defendants, their agents and representatives from interfering into the peaceful possession as the property shown in the site plan, has been dismissed by both the Courts below.

The case set up by the plaintiffs was that they had constructed house in the suit property for last more than 40 years on the eastern side

towards Chandigarh Kalka road and running their shops by way of pharries & running cloth shops etc. and, therefore, they could not be dispossessed except in due course of law. The suit was contested by the respondent-Nagar Panchayat Zirakpur now Municipal Council that entire Village of Zirakpur vide Notifications dated 07.05.1999 and 04.08.2000 vest in the Nagar Panchayat. Mutation of this property had also been recorded on 31.03.2000. Nagar Panchayat is owner in possession of the property. Basically appellant-plaintiffs were none else but encroachers and notice under Section 172 of the Punjab Municipal Act, 1911 was also served.

Mr. Khunger, learned counsel appearing on behalf of defendants submits, that notice of eviction was served upon plaintiff on 13.09.2000. Suit was filed on 06.10.2000 whereas plaintiffs were dispossessed on 07.10.2000 as the flyover namely Zirakpur flyover has to be constructed which has already been constructed. Both the Courts below have dismissed the suit and appeal on the basis of the oral and documentary evidence.

I have heard learned counsel for the respondents-defendants and appraised the paper book.

Since the plaintiff had already been dispossessed wayback in the year 2000 therefore they appear to have lost interest in the appeal. The trial Court found that once the appellants-plaintiffs were not in possession, declined the relief of injunction. Moreover, as Zirakpur flyover has already erected, in my view, no cause of action survives in the present appeal.

Keeping in view the aforementioned facts, there is no merit in the appeal, much less, no substantial question of law arises for

determination.

Appeal stands dismissed.

Accordingly, the civil miscellaneous application bearing No.10687-C of 2011 under Order 41 Rule 27 CPC for leading additional evidence, also stands dismissed.

10.12.2015

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**(AMIT RAWAL)
JUDGE**