

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

Date of decision:13.02.2015.

Rohtas Yadav

.....Appellant

v.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Santosh Sharma,Advocate for the appellant.
Mr.Ashwani Bura,Advocate for Municipal Corporation,
Gurgaon.

Jaswant Singh,J.(Oral)

Plaintiff is in second appeal against concurrent findings returned by both the Courts below whereby his suit for recovery of Rs.5 lacs as damages and declaration and mandatory injunction was dismissed vide judgment and decree dated 25.10.2010 passed by Civil Judge (Senior Division) Gurgaon and duly affirmed vide judgment and decree dated 18.8.2011 passed by learned Additional District Judge, Gurgaon while dismissing the appeal of the plaintiff/appellant.

In short the petitioner admittedly bought 1136.7 square feet of land comprised in khasra no.347 vide registered sale deed no. 2463 dated 7.6.2000. While raising construction in his land in khasra no.347, he also encroached upon land in adjacent khasra no.720 to the extent of 1293.47 square feet. It is conceded that the entire land comprised in khasra no.720 belonged to Gram Panchayat. It is claimed

that the Gram Panchayat had passed a resolution on 6.5.2008 recommending allotment of the encroached area to the plaintiff/encroacher in terms of the policy dated 16.10.2000 (Ex.P-39). Before any decision could be taken on the resolution of the Gram Panchayat, the area came to be owned by Municipal Corporation, Gurgaon vide notification dated 2.6.2008 whereby the municipal limits were extended leading to the inclusion of the area of Gram Panchayat, Nathupur including the suit land to be part of the urban property covered under the Municipal Corporation, Gurgaon. Pursuant to a drive for removal of encroachments undertaken in the year 2005 by the authorities the encroached area was demolished. Plaintiff filed the present suit on 18.7.2005 seeking damages of Rs.5 lacs for the removed construction and declaration to the effect that he was entitled to purchase the encroached land in terms of the policy Ex.P-39. During the trial plaintiff gave up claim for damages and asserted his right for allotment only, which both the Courts below have declined.

Having heard learned counsel for the parties this Court finds no illegality in the concurrent findings recorded by both the Courts below.

It is not in dispute that as per instructions of the Haryana Government Ex.P-39 for sale of the encroached area of the Gram Panchayat as per condition no.3-C the construction should have been made before 31.3.2000. In the present case although there is a dispute that the plaintiff had raised construction in the year 1993/1997.

however, he concededly became owner of a piece of land comprised in khasra no.347 on 7.6.2000 vide registered sale deed dated 7.6.2000 and thereafter the possibility of raising construction in adjacent khasra no.720 as well. In such facts, both the Courts below have found that he is not entitled to any allotment since the construction is deemed to be after the cut off date of 31.3.2000.

In view of the above concurrent findings of fact, the present appeal is dismissed as no question of law much less substantial question of law arises for consideration in this appeal.

13.02.2015
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(Jaswant Singh)
Judge