

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

**Regular Second Appeal No.6335 of 2014 (O&M)**  
Date of decision: 07.09.2015

Municipal Corporation, Faridabad and another                      ... Appellants

versus

Pat Ram and others                                                              .... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present:     Mr. Tushar Gautam, Advocate,  
                  for Mr. Jasbir Mor, Advocate,  
                  for the appellants.

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1.     Whether reporters of local papers may be allowed to see the judgment ? No.
2.     To be referred to the reporters or not ? No.
3.     Whether the judgment should be reported in the digest ? No.

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**K.Kannan, J. (Oral)**

**CM No.15154-C of 2014**

For the reasons stated in the application, delay in filing  
the appeal is condoned.

Application stands disposed of.

**Regular Second Appeal No.6335 of 2014**

1.             The appeal is by the Municipal Corporation, Faridabad  
against the decree for injunction granted in favour of the plaintiff.  
The suit was for injunction in relation to the property described in  
suit with reference to khewat number, khatauni and rectangles and

the relief is sought by the plaintiff as owners, the first plaintiff claiming as the owner as an ancestral property having devolved to him and the plaintiffs 2 to 7 claiming as owners in possession by sale deed dated 15.09.1999. The claim was that there is a house, there are constructions and they have obtained telephone, electricity and water connections at their respective constructions. The defendant contended that there had been encroachment in the main road and the relief of injunction cannot be granted. The court found that there had been not even a notice issued to the plaintiffs alleging encroachments and seeking for their removal at any time. On the basis of evidence disclosed, the suit was decreed. At the appellate court, the Municipal Corporation wanted to file a notice alleged to have been send under Section 408-A of the Haryana Municipal Corporation Act, 1994. There was no proof of service of notice and no explanation had also been given as to why such an important information was not available even at the time of trial. The appeal was dismissed.

2. Even after filing the appeal, I have noticed from the file that the appellant has been taking adjournments only on a plea that he will bring the status report regarding the nature of action taken and proof of demarcations if already done. I do not think the case must be detained any further, for, the courts below have done what was appropriate and just under the circumstances. If there is any

encroachment by any parties-the plaintiffs, it will be open to the defendant to join issues with the plaintiffs by resort to action under the Haryana Municipal Corporation Act in the manner stipulated for removal of unlawful encroachments and if such action is taken, the decree for bare relief of injunction now affirmed will not come in the way for determination. As of now, till the plaintiff's possession is not shown to be unlawful or unauthorized, the relief of injunction cannot be denied. There is no merit in the second appeal filed by the Municipal Corporation and the second appeal is dismissed but with liberty to take independent action in the manner provided under the law and on proof on any encroachment which again will be in the manner according to law.

**(K.KANNAN)**  
**JUDGE**

07.09.2015  
sanjeev