

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

RSA-4508 of 2012 (O&M)

Date of decision: 31.03.2016

Maina Wanti

...Appellant

Versus

Municipal Council, Sector-4, Panchkula

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Amit Kumar Jain, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

The suit for declaration filed by the appellant/plaintiff
(for short 'the appellant') was dismissed by the trial Court, vide
judgment and decree dated 21.04.2012.

2. Aggrieved against the findings of trial Court, the
appellant filed an appeal which was dismissed by the learned 1st
Appellate Court, vide judgment and decree dated 01.08.2012.

3. The 1st Appellate Court affirmed all the findings
recorded by the trial Court after discussing and evaluating the
oral as well as documentary evidence on record, hence, the
instant appeal has been filed by the appellant.

4. It is contended that both the Courts have erred in not considering the oral as well as documentary evidence on record.

The learned counsel refers to the report of the Local Commissioner who had stated that the demarcation is not possible on the spot as there was no pucca point. The learned counsel further refers to the notice dated 29.09.1999 issued by the HUDA regarding the illegal encroachment which was set aside, vide judgment and decree dated 10.09.2007.

5. Heard, the learned counsel for the appellant and perused the record.

6. The case of the appellant is that she purchased three parcels of land vide three separate sale deeds. Vide report dated 12.07.2005, Ex.D1, it was found that the appellant had encroached upon the area of the respondent-HUDA. Both the Courts have observed that neither the sale deeds nor the site plans indicating the exact area under the appellant was placed on record. The demarcation carried out on the orders passed by this Court, wherein the appellant was not a party, therefore, no benefit could be given to the appellant. Thus, in these circumstances, this Court finds no merit in the argument raised by learned counsel for the appellant. Accordingly, the present

appeal fails and the findings recorded by both the Courts below
are hereby affirmed as such.

Dismissed in limine.

31.03.2016

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(JITENDRA CHAUHAN)
JUDGE