

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

RSA No.1852 of 2017 (O&M)

Date of decision : 28.11.2017

Municipal Committee, Kurali

...Appellant

Versus

Kaka Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arjun Kundra, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1-appellant is in Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below decreeing the suit filed by the plaintiff for possession and mandatory injunction.

The plaintiff had filed a suit seeking possession of the property on the ground that he is owner of the same and since he had gone abroad, the Municipal Committee-defendant(s) had installed a tubewell on the aforesaid land. The plaintiff had pleaded that he had purchased the property vide sale deed Ex.P1 on the file.

On the other hand, the defendants pleaded that the tubewell was installed 27 years back and the property does not belong to the plaintiff.

Learned trial Court after appreciating the evidence available on the file decreed the suit filed by the plaintiff and gave direction to the defendants either to give alternative land to the plaintiff or to give him compensation failing which possession be handed over to the plaintiff.

The defendants filed first appeal which was again dismissed

after re-appreciating the evidence available on the file.

I have heard the learned counsel for the appellant at length and with his able assistance gone through the judgments passed by both the Courts below.

Learned counsel for the appellant could not point out any misreading of the evidence or non-reading of the evidence available on the file. In this case, the learned trial Court has taken a very reasonable view taking into consideration that the plaintiff is proved to be the owner of the property whereas the Municipal Committee is in unauthorized possession thereof. As directed that the defendants either should deliver the possession of the alternative similarly situated land of equivalent area or to compensate the plaintiff at the prevalent market rate. It was further ordered that in case the defendants did not wish to comply with the aforesaid directions, then the plaintiff would be entitled to take the possession of the suit property.

In view of the concurrent findings of fact which are based on appreciation of the evidence, this Court does not find any good ground to interfere with the same. Hence, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications are disposed of, in view of the abovesaid judgment.

28.11.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No