

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

**RSA 4654/2017(O&M)
Date of decision:09.10.2017**

Surender and others

.....Appellants

v.

Smt.Rameshwari Devi and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Nipun Vashist,Advocate for the appellants

Jaswant Singh,J,(Oral).

Defendants 1,3 and 4 are in second appeal against the judgments and decrees passed by the Courts below whereby suit of the respondent/plaintiff for permanent and mandatory injunction was decreed with costs.

In short,plaintiff/respondent filed a suit for permanent and mandatory injunction with the averments that she was owner of house no.6412 Mohalla Bada Talab,Rewari and she alongwith her husband stays in Jaipur. Taking advantage of their absence,defendant no.1 forcibly closed the waste water channel on eastern side of plaintiff's house and has also constructed a three feet wide platform on the southern side of his house with a four feet wide ramp on Municipal Land covered with a three feet wide shade without taking any permission of getting plan approved. It was further alleged that defendant no.1 had opened a door along the north-eastern side of plaintiff's house and alongwith it constructed stairs in Municipal Land by demolishing the wall of her house indicated in red in map enclosed with the plaint. Since defendants,who were in league with municipal council, refused to remove encroachments the suit was filed.

Upon notice,defendants filed separate written statements.
Municipal Council in its written statement admitted alleged encroachments

by defendants 1,3 and 4 over part of public street liable to be removed at the expenses of defendants 1,3 and 4 in public interest. With regard to erection of wall Municipal Council took the stand that it was a dispute between the plaintiff and defendants and Council had nothing to say.

Defendants 1,3 and 4 in their written statement controverted the material contentions of the plaintiff.

On the pleadings of the parties, issues were framed. Parties sides led evidence in support of their respective pleas.

Both the Courts on the basis of material available on record have recorded concurrent finding of fact that plaintiff had discharged the onus of proving illegal encroachments by defendants which was not permissible as per Municipal Council representative and the same were liable to be removed. Accordingly, plaintiff was held entitled to the grant of decree for permanent injunction restraining defendants from creating any interference in the discharge of the fowl water flowing in the waste water channel on eastern side of plaintiff's house and further for mandatory injunction directing defendants to demolish the platform,ramp,projection and stairs in the property of MC at their own expenses and to restore the land to its original position.

At the time of hearing, counsel for the appellants has failed to raise any question of law much less substantial question of law so as to interfere with the impugned judgments and decrees.

Dismissed.

09.10.2017

joshi

(Jaswant Singh)

Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No