

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

RSA No.2719 of 2015 (O&M)

Date of decision : 05.09.2018

Anand Parkash

...Appellant

Versus

Municipal Council, Narnaul and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aman Bahri, Advocate for the appellant.

Mr. Deepak Manchanda, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff claims that he has purchased the property from Har Lal Sharma vide sale deed dated 10.03.1993 who in turn had purchased the property from Gigraj vide sale deed dated 02.01.1979.

The defendants contested the suit and pleaded that the plaintiff has encroached upon certain part of the public passage by constructing a tin shed which is extended on the road.

Both the Courts after examining the evidence have found that the plaintiff is in unauthorized occupation of the extended portion which is part of the public passage.

Learned counsel for the appellant could not point out any

perversity or illegality in appreciation of the evidence by the Courts below. However, he submitted that the notice as issued was not proper as no notice could be issued under Section 235 of the Haryana Municipal Act, 1973.

In the considered view of this Court, merely because a wrong Section has been referred to in the notice issued by the public authority would not improve the case of the plaintiff. The plaintiff has failed to show any right, title or interest in extended portion, possession whereof is being sought by the Municipal Committee.

Keeping in view the aforesaid facts, the present Regular Second Appeal is dismissed. However, the Municipal Council would be at liberty to issue fresh notice and take in accordance with law.

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

05.09.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No