

In the High Court for the States of Punjab and Haryana  
at Chandigarh

**RSA No.2812 of 2018 (O&M)**

**Date of Decision:- 11.05.2018**

Shri Maharishi Valmiki Harijan Chopal Committee .....Appellant

Versus

Municipal Committee, Farrukh Nagar .....Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present : Mr. H.S.Hooda, Senior, Advocate with  
Mr. C.S.Singh, Advocate, for the appellant.

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**GURVINDER SINGH GILL, J.**

**CM-7278-C-2018**

There is an application for delay of 5 days in re-filing the appeal.

In view of the reasons mentioned in the application, delay of 5 days in re-filing the appeal is condoned.

Civil miscellaneous application stands allowed accordingly.

**RSA-2812-2018 (O&M)**

1. The present appeal is directed against judgment dated 8.2.2018, whereby the learned Additional District Judge, Gurugram, has set aside the decree passed in favour of the appellant-plaintiff granting permanent injunction to restrain

the respondent-defendant from constructing any public toilet in front of the land belonging to appellant-plaintiff shown by letters ABCD.

2. The case set up by the appellant-plaintiff is that respondent-defendant was adamant to construct public toilets in front of suit property belonging to appellant-plaintiff without his consent, which would lower the value of property belonging to appellant-plaintiff, whereas the suit property being situated on road is valuable property and appellant-plaintiff wants to construct shops on the same to generate income for the society. The learned lower Court had decreed the suit holding therein that construction of toilets in front of property of the appellant-plaintiff would inevitably result in nuisance. The learned lower Appellate Court however set aside the said judgment holding therein that the appellant-plaintiff has been unable to substantiate his ownership over the property marked as ABCD in the site plan and that entries in House Tax Register i.e. Ex. P-3 and Ex.P-3/1 or even sanctioning of site-plan Ex.PX would not establish ownership of appellant-plaintiff and as such in these circumstances the appellant-plaintiff had no right to seek any injunction against the respondent-defendant i.e. Municipal Committee, Farrukh Nagar.
3. Learned counsel for the appellant has assailed the impugned judgment by submitting that the learned lower Appellate Court did not appreciate the evidence in the correct perspective and that in view of Ex.PX which is site-plan sanctioned by the Municipal Committee itself, the ownership and possession of the plaintiff cannot be doubted. Learned counsel has further pointed out that in fact the defendant/Municipal Committee had been unable to show that it is the owner of the property where the toilets are proposed to be constructed and that in the absence of such evidence, the Municipal

Committee had no right to construct public toilets so as to cause nuisance to inhabitants of the locality.

4. I have heard learned counsel for the appellant and have also gone through the impugned judgment as well as the judgment of the learned lower Court.
5. I do find that no document of ownership has been produced on record so as to show ownership of appellant-plaintiff over the property marked as ABCD and it is only on the strength of sanctioning of the site plan that the appellant-plaintiff is banking upon. The appellant further relies upon the fact that even the defendant has not produced any evidence regarding ownership over the land where the public toilets are proposed to be constructed.
6. It is well settled that the plaintiff has to stand on its own legs and cannot draw strength from weakness of case of the defendant. In any case, even if for the sake of arguments, it is admitted that the appellant-plaintiff is owner of the property marked as ABCD, still it is not a case of the appellant-plaintiff nor is there any evidence to show that the place where the public toilets are proposed to be constructed belongs to the appellant-plaintiff so as to vest any right in the appellant-plaintiff to seek an injunction in respect of the same.
7. It is well settled that individual good has to make way for public good. In case the Municipal Committee intends to construct public toilets over some property lying across the property of the plaintiff, the same would be for general and public good and such endeavour on the part of the Municipal Committee cannot be allowed to be obstructed especially when there is no valid reason or any ground to justify obstruction in the same. The apprehension of appellant-plaintiff that value of his property will be lowered is

not a ground justifiable enough to thwart public good.

8. The learned lower Appellate Court has given valid reasons for setting aside the judgment of the lower Court. I do not find any infirmity in the findings as recorded by the lower Appellate Court and the same are hereby affirmed.
9. Finding no merit in the appeal, the same is hereby dismissed.

**May 11, 2018**  
mohan

**(GURVINDER SINGH GILL)**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No