

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

RSA-3929-2018 (O&M)

Date of decision: July 05, 2018

Jameel Ahmed

...Appellant

Versus

Municipal Committee Nuh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Virendra Rana, Advocate for the appellant.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff Jamil Ahmed filed a suit for mandatory injunction with the averments that he alongwith his brother is owner in possession of the land measuring 02 Marlas i.e. 1/24th share of 02 Kanals 02 Marlas, comprised in Khewat/Khatoni No.381/421, situated in Ward No.1 within Municipal Limit, Nuh. Plaintiff and his brothers inherited the suit land from his father, vide mutation No.6992 and thereafter, they constructed three shops thereon. They put tin-shed in front of the said shops. In front of the shops there is old Nala (drain). Since defendants were planning to change nature and existence of the said drain by giving bend in front of the shops in question and had been threatening to demolish the tin-shed and the shops, plaintiff filed the instant suit. Defendants resisted the suit on the ground that in view of the order passed by the civil court, the drain

was being constructed on the property of PWD and plaintiff had no cause of action to file the suit. Plaintiff had illegally encroached upon the portion of the drain by putting tin-shed etc. After hearing both the parties and perusing the records, the trial court observed that plaintiff did not produce any sanctioned site plan to the Municipal Committee and he illegally and unlawfully encroached upon some portion of the drain by putting tin-shed etc. As drainage system became very old, Municipal Committee had required necessary modification and removed the illegal encroachment made by the plaintiff/appellant. It, thus, dismissed the suit filed by the plaintiff. Findings were affirmed by the lower appellate court.

Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

CM-10252-C-2018:

Since the main appeal has been dismissed on merits, this application for condonation of delay does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

July 05, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No