

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

**RSA No.775 of 2017 (O&M)  
Date of Decision:16.01.2018**

Sajjan Singh

...Appellant

**Versus**

Municipal Council Qadian

...Respondent

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present:** Mr.Munish Bhardwaj, Advocate for the appellant.

**ANIL KSHETARPAL, J. (ORAL)**

**CM-1681-C-2017**

Application is allowed. Exemption sought is granted.

**Main case**

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

The plaintiff filed a suit for permanent injunction, restraining the defendant (Municipal Council Qadian) to interfere in his possession. It was the case of the plaintiff that he had purchased the property from the Government vide sale certificate dated 18.7.1964 and the defendant is trying to interfere in his possession.

On the other hand, defendant pleaded that in fact the plaintiff had encroached upon a part of the public street, which vest with the Municipal Council of Qadian and due to such encroachment, the width of

street has become narrow. The Municipal Council further submitted that it intended to remove the encroachment and obstacles created by the plaintiff.

Both the courts, after appreciating the evidence available on the file, have recorded a concurrent finding of fact that the plaintiff has failed to prove his case.

No doubt, the plaintiff has produced on file a sale certificate issued by the State in the year 1964. However, the aforesaid sale certificate does not give dimensions of the property purchased by the plaintiff. The plaintiff did not produce any other evidence apart from filing a lay out plan besides sale certificate. Both the courts have considered the documents and have recorded a finding that the plaintiff has failed to prove his case.

I have heard the learned counsel for the appellant at length and with his able assistance gone through the impugned judgments passed by the courts below as well as a copy of the sale certificate Ex.P1 and a copy of the lay out plan Ex.P2.

Although the learned counsel for the appellant has vehemently argued that the area in dispute is part of the house, however, he could not substantiate his argument. The lay out plan got prepared by a party, would not prove the ownership of the plaintiff. Sale certificate does not give dimension of the property purchased by the plaintiff. The street is located on the western side and in the sale certificate also, the street has been shown in the western side. It is the positive case of the Municipal Council that the street has become narrow due to encroachment by the plaintiff-appellant.

In view of the discussion made above, there is no good ground to interfere in the concurrent findings of fact arrived at by the courts below.

Accordingly, the present regular second appeal is dismissed. The

application for condonation of delay of 776 days in filing the appeal is also dismissed, in view of the dismissal of the appeal on merits.

**16.01.2018**  
**mks**

**(ANIL KSHETARPAL)**  
**JUDGE**

**Whether speaking/reasoned: Yes/No**

**Whether Reportable: Yes/No**