

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

RSA No. 847 of 2017 (O&M)
Date of decision : July 25, 2018

Subhash Singh Rana

..... Appellant

v.

Municipal Council, Ambala City and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. BS Badhran, Advocate
for the appellant.

Ajay Tewari, J (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit filed by the appellant.

Brief facts are that the appellant had sought permanent injunction against the respondent-Municipal Council restraining it from interfering in his possession over 21 square yards of land comprised in Khasra No.69 Min, situated near Arya Samaj Mandir, Railway Road, Ambala City. The case of the appellant was that he had purchased this land from the previous owner for construction of a shop. He had applied for sanction of the site plan. The respondents had themselves sanctioned the site plan but when he started construction, their employees prevented him from doing so.

The case of the respondents, on the other hand, was that

actually the land in dispute formed a part of the road and though they had admitted initial sanction of the site plan, they further pleaded that on verification it was ascertained that the land in dispute was in fact a part of the road and consequently the sanction letter was withdrawn.

Both the Courts below noticed that as per the revenue record put in evidence by the appellant himself, the total area comprised in Khasra No.69 Min was 3 kanals 9 marlas and the revenue record consistently showed that out of those 3 kanals 9 marlas, 5 mala was in the possession of a co-sharer, namely, Surinder Kumar while the remaining 3 kanals 4 marlas was Gair Mumkin road. Both the Courts below also noticed that even the mutation on the basis of the sale deed in favour of the appellant had recorded that the land being sold was Gair Mumkin road and it was noted that the sale deed was incorrect. It was in these circumstance that both the Courts below dismissed the suit.

Counsel for the appellant has not been able to rebut the presumption which attaches to the jamabandi. He has also not been able to explain the note in the mutation. In circumstances, no fault can be found with the findings arrived at by both the Courts below. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

July 25, 2018
'kk'

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No