

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.863 of 2017 (O&M)

Date of decision: 21.09.2018

Amarjit Kaur and others

..... Appellants

Versus

Municipal Corporation, Ludhiana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Gulzar Mohd., Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below dismissing their suit for permanent injunction restraining the municipal authorities from demolishing the construction. Both the Courts have found that the building has been constructed within the prohibited area and it is causing hurdle in free flow of traffic. The Courts have further found that PW-2 and PW-3 when appeared in evidence have admitted that the construction is within 5 meters from the national highway No.1 which is in violation of Section 143 of the Punjab Regional and Town Planning & Development Act, 1995.

In view of the undisputed position, no error can be found in the judgments passed by the Courts below. Through the application for additional evidence, learned counsel has sought to produce on file a judgment passed by the learned Additional District Judge, Ludhiana in a

different case. The contention of learned counsel for the appellants is that in the aforesaid judgment, the Court has granted injunction to similarly situated person.

In the considered view of this Court, such judgment would not create a right in favour of a person who has violated the law. National highway No.1 is the main road and the administration has been making effort to avoid any traffic hazard on the road. Once the PW-2 and PW-3 have themselves admitted that construction is on the scheduled road and it has been raised within the prohibited 5 meters, this Court does not find any good ground to interfere with the judgments passed by the Courts below.

Appeal is dismissed.

CM-14574-C-2018

The effect of the judgment which is sought to be produced in additional evidence has also been considered, therefore, no separate order is required in the application.

21.09.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No