

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

CR-5043-2018

Date of Decision: 14.01.2019

Kanwar Lal Singh and others

...Petitioners

Vs.

Nagar Council Samrala

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Sunil Agnihotri, Advocate
for the petitioners.

Amol Rattan Singh, J (Oral)

The trial Court has, entirely on the basis of the presumption raised under Section 44 of the Punjab Land Revenue Act, 1887, held that as the *Jamabandi* for the year 2005-06 shows the petitioners (defendants no. 1 and 2) to be in possession of the suit property, with the name of the respondent (Nagar Council) not reflected therein, the documents relied upon by the Nagar Council, to show that even disposal wells and a slaughter house had been constructed thereupon, had 'lost their relevancy'.

The learned appellate Court has reversed that finding on the ground that record was seen by that court to the effect that two wells and a slaughter house were, in fact, constructed on the suit property, by the respondent-plaintiff, i.e. the Nagar Council, Samrala.

Hence, it was held that simply on the basis of such presumption as is raised under Section 44 of the said Act, which is a perfectly rebuttable presumption, an injunction could not have been refused to the respondent-plaintiff, i.e. the Nagar Council, which is stated to have been in possession of the property since the 1950s, with record also showing that it was in possession.

In view of the above, I find absolutely no reason to interfere with the impugned order and consequently, this petition is dismissed.

However, nothing stated herein above would be taken by the trial Court to be an observation on merits of the cases of the parties to the suit, the observations having been made wholly in the context of this petition seeking the setting aside of the impugned order, by which interim injunction under Order 39 Rules 1 and 2 CPC has been granted to the respondent-plaintiff.

(AMOL RATTAN SINGH)
JUDGE

14th January, 2019

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Whether speaking/reasoned : Yes

Whether reportable : No