

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

**RSA No.2759 of 2018 (O&M)**  
**Date of Decision: 03.12.2019**

**Vs**

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

\*\*\*\*

**RAJ MOHAN SINGH, J.**

[1]. Plaintiff is in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for permanent injunction.

[2]. Plaintiff filed a suit for permanent injunction against the defendants restraining them from interfering in his peaceful possession of the residential house and street as shown in the headnote of the plaint.

[3]. Both the Courts below have found as a matter of fact that the plaintiff himself has encroached upon the public street and have constructed the area of the street. Earlier plaintiff was residing in a portion marked by letters 'DB' shown in the site plan Ex.P-1 and thereafter, he started residing in newly

constructed house shown in read colour in the site plan Ex.P-1. The plaintiff took indifferent stand and did not disclose as to from whom he has purchased the newly constructed house. The same was found to be the result of encroachment in the public street.

[4]. Plaintiff could not prove the dimensions of the area purchased by him from the previous owner. Previous owner was not examined, who could have proved the dimensions of the land sold by him to the plaintiff.

[5]. A local Commissioner was appointed with direction to inspect the spot and give his report regarding actual and factual position on the spot. According to the report of local Commissioner dated 13.09.2014, there was a passage at Mark 'A' and 'B', but the same was not found to be in existence at the spot as the same was encroached upon by the plaintiff. The plaintiff was found to have encroached the area of public street and has constructed stairs and gate as depicted in the photographs produced by the plaintiff himself as Ex.P-3 to Ex.P-5.

[6]. Even though the plaintiff was not found to be in possession of the encroached area of public street, the grant of permanent injunction is an equitable relief and the same cannot be granted in favour of the encroacher over the public street. In

the case of **Mohan Lal vs. Mohan Singh, 1995 PLJ 48**, wherein it was held by this Court that grant of injunction in favour of a person involved in encroachment of public properties would not be conducive as the same would be detrimental to the public interest. The public properties are meant for the enjoyment of the public at large. The community as a whole is entitled to enjoy the properties belonging to the Government as the Government holds the property as a trustee of the people. The Court should be extremely cautious for granting injunction in favour of such encroacher on the basis of his possession over the public properties.

[7]. Based on the aforesaid interpretation, both the Courts below have declined to interfere in the suit, even though the possession of the plaintiff was found on a public street. No exception can be made out in favour of the appellant, who is found to be an encroacher over a public street.

[8]. In view of above, no substantial question of law worth cognizance is involved in this appeal. The appeal is found to be totally devoid of merits and is accordingly dismissed.

December 03, 2019

*Atik*

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)**  
**JUDGE**

Yes/No

Yes/No