

RSA No. 3003 of 2018 (O&M)

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

**RSA No. 3003 of 2018 (O&M)
Date of decision: 21.11.2019**

Indro Devi

... Appellant

Versus

**Nagar Nigam, Hisar, Tehsil and District Hisar, through its Secretary
... Respondent**

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Vijay Singh Kajla, Advocate,
for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiff was dismissed by the trial court, vide judgment and decree dated 10.7.2014, and as even the appeal preferred against the said decree failed and was dismissed on 26.10.2017, she is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for permanent and mandatory injunction against the defendant qua the suit property, i.e. a house, situated within Lal Dora in village Satrod Khas, Tehsil and District Hisar.

In brief, the case set out by her was that her husband and father-in-law were residents of village Satrod Khas from the very beginning. Plaintiff, since the time of her father-in-law, was in possession of the house in question and was residing therein for over 60 years. But, as defendant sought to interfere in her peaceful possession on 20.10.2012, thus the suit.

In the written statement filed by defendant, it was pleaded that

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the area situated in village Satrod Khas was included within the Municipal Corporation, Hisar, w.e.f. 17.3.2010. Defendant had even constructed a community centre upon the suit property, that was a vacant land. Thus, defendant was the owner in possession of the suit property. It was denied if the plaintiff had been in possession of the plot in question since the time of her father-in-law. In fact, she had created a concocted story to encroach upon the municipal land. Thus, the suit was liable to be dismissed.

Upon consideration of the matter in issue and evidence on record, both the courts concurrently concluded that evidence on record proved that suit property vests with the Municipal Corporation, Hisar, pursuant to a gazette notification dated 17.3.2010 (Ex. D8). Thus, there could not be any dispute qua its title. As regards possession, the onus was upon the plaintiff to prove that she had been in actual physical possession of the suit property for the past 60 years, and she examined Lal Chand (PW2) and Mange Ram (PW3), in support of her claim. However, both these witnesses testified in their deposition that plaintiff had another separate house in the village where she was residing, and the suit property was lying vacant. Further, one room was in existence earlier in the plot in question, but that too was demolished by the officials of the Corporation. Not just that, the report furnished by the Local Commissioner revealed that there only existed a boundary wall, that was raised up to 4-5 feet around the suit property, and a cattle was tied with wooden pole in the open area. Thus, even the report submitted by the Local Commissioner proved that no house existed in the suit land. Photographs (Ex.D1 and Ex.D2) also showed that there was not any permanent construction or a cemented wall at the spot. On the contrary, revenue records proved ownership of the defendant over the

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suit land. Significantly, plaintiff never questioned the correctness of those documents. Thus, the evidence on record proved that suit land was not only owned by the Municipal Corporation, but was also in its possession.

Upon being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the courts. The appeal being devoid of merit, is accordingly dismissed.

**(ARUN PALLI)
JUDGE**

November 21, 2019

AK Sharma

Whether speaking / reasoned:

YES

Whether Reportable:

YES/NO