

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.5823 of 2019(O&M)

Date of decision: 20.12.2021

THE URBAN IMPROVEMENT CO. PVT. LTD.

...Appellant

Versus

SANJAY RAMPAL AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vaneet Soni, Advocate
for the appellant.

ANIL KSHETARPAL, J (Oral)

C.M.No.16884-C of 2019

For the reasons stated in the application, the delay of 2 days in filing the appeal is condoned.

The application stands disposed of.

MAIN

The defendant assails the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the suit filed by the plaintiff (respondent herein) for grant of decree of permanent injunction as well as mandatory injunction.

Some facts are required to be noticed.

The plaintiff is undisputed owner of plot bearing No.2366, measuring 253.55 square yards, in Sector-A, Greenfield Colony, Faridabad. The defendants have developed the aforesaid colony. In other words, the appellant is the colonizer. The plaintiff found that some part of his plot has been encroached upon resulting in reduction of the size of his plot.

Both the Courts, on appreciation of evidence, have found that various owners have constructed their respective residential houses by

deviating from the approved layout plan. Thus, the first appellate Court has directed that since the size of the plot bought by the plaintiff stands reduced by 47.54 square yards, therefore, the defendant is liable to compensate the plaintiff for the aforesaid shortage.

The learned counsel representing the appellant contends that the appellant-company had sold the plot and delivered the possession to the plaintiff. He submits that, thereafter, the various owners deviated from the approved layout plan while constructing their houses. He further submits that the appellant-company cannot be directed to pay the cost of 47.54 square yards area at the present market rate.

This court has considered the submissions, however, find no substance therein.

It is not in dispute that the appellant-company developed a colony and earmarked the plots. Hence, it was the duty of the appellant-company to ensure that the various owners construct their buildings in accordance with the plots so earmarked. From a bare perusal of the sketch produced by the appellant-company, it is evident that starting from the owner of plot no.2353, all the owners of ascending plot numbers were permitted to deviate from the plots earmarked respectively. The ultimate result is that the plaintiff is not in a position to construct his residential house on 253.55 square yards. He has been left with $253.53 - 47.54 = 206.00$ square yards plot.

Keeping in view the aforesaid facts, the court has passed a decree. The officials of the appellant-company being the colonizer were required to ensure that the concerned owners of the respective residential plots, construct their buildings, in accordance with the approved layout

plan.

Consequently, finding no merit in the case of the appellant, the present regular second appeal is dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

20.12.2021
nt/joyti

(ANIL KSHETARPAL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No