

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1765 of 2000 (O&M)
Date of Order:24.01.2024

Smt.Vidya Devi ..Appellant
Versus

Municipal Committee, Rewari and others ..Respondents

RSA No.4065 of 2008(O&M)

Vishavnath ..Appellant
Versu

Smt. Vidhya Devi and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajit Kumar Sharma, Advocate
for Mr. Ram Darshan Yadav, Advocate
for the appellant (in RSA No.1765 of 2000)
for respondent no.1 and 2(in RSA-4065 of 1998)

Mr. Nipun Vashist, Advocate
for the appellant (in RSA-4065 of 2008)
for respondent no.3(in RSA-1765 of 2000)

Mr. Mukesh Kumar Verma, Advocate
for respondent no.1 and 2 (in RSA-1765-2000)
for respondent no.3(in RSA-4065 of 2008)

ANIL KSHETARPAL, J

C.M.No.5476-C-2023 in/and
RSA No.1765 of 2000

1. For the reasons stated in the application, which is supported by the affidavit, the application is allowed and the appeal is restored to its original number. Taken on Board.
2. With the consent of the learned counsel representing the parties, two connected regular second appeals are being dispoed of by a common judgment.

3. In RSA No.1765 of 2000, the appellant assails the correctness of the judgment and decree passed by the first appellate court. The plaintiff's suit for grant of decree of permanent injunction restraining the defendants from demolishing her 'Chabutra' (platform) constructed in the public passage was though decreed by the trial court, however, reversed by the first appellate court.

4. It has been found that the Municipal Committee, Rewari, has issued notices to the plaintiff for removing the aforesaid platform as it was resulting in encroachment of public passage and causing destruction in free movement of general public.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

6. The learned counsel representing the appellant submits that the aforesaid platform is in existence for quite some time, nearly 50 years and therefore, this court should allow its continuance.

7. The arguments of the learned counsel representing the appellant has been considered, however, found no substance. The buildings in the municipal area are required to be constructed in accordance with the sanctioned building plan. No one has the licence to encroach upon the public passage. The Municipal Committee, Rewari, has already issued notices to the appellant. If encroachments on the public passage are permitted, it will cause inconvenience to the general public as the passages would become narrow.

8. Hence, no ground to interfere is made out.

9. Dismissed accordingly.

10. In Regular Second Appeal No.4065 of 2008, the plaintiff prays

for removal of the encroachment by the appellant in RSA No.1765 of 2000.

The first appellate court did not issue a decree of mandatory injunction as RSA No.1765 of 2000, was admitted and the stay was grayed. Now the aforesaid appeal has been dismissed. Hence, this appeal i.e. RSA No.4065 of 2008, is allowed.

11. The Municipal Committee, Rewari is directed to remove the encroachment from the public passage forthwith.

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

January 24, 2024

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO