

RSA-1859-2025 (O&M)
DATE OF DECISION : 07.08.2025

MAHINDERI DEVI @ MAHENDARI ... APPELLANT
V/S
MUNICIPAL COUNCIL, BHIWANI AND OTHERS
... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Mani Ram Verma, Advocate for the appellant.

* * *

PARMOD GOYAL, J.

Appellant is aggrieved by judgment dated 30.08.2018 passed by the Court of learned Addl. Civil Judge (Senior Division) Bhiwani vide which suit of plaintiff for permanent injunction was dismissed and judgment dated 24.03.2025 passed by the Court of Addl. District Judge, Bhiwani vide which the appeal preferred by plaintiff was also dismissed.

2. Simple case of plaintiff was that he is owner of land measuring 8 marla consisting in Khasra No.854/2 and Municipal Council is trying to demolish construction raised over the suit property in the garb of notices of encroachment. On the other hand, it is the case of defendant-Municipal Council that plaintiff has encroached upon public street in the garb of property measuring 08 marlas comprised in Khasra No.854/2. Prior to filing of present suit, plaintiff had also preferred another suit for injunction against Municipal Council wherein demarcation by Local Commissioner was ordered. However, plaintiff had withdrawn the said suit of his own before demarcation.

3. It is worth noticing that in the present case, no demarcation has been placed by plaintiff to show that the area being sought to be demolished

was within Khasra No.854/2. Both the Courts below have duly considered site plan annexed by plaintiff showing the suit property and on the basis of site plan i.e. Ex.P4, it has concluded that even in the site plan, two sides of house were shown having streets. However, both the streets in the map shown by the plaintiff are closed streets, whereas in the map relied upon by defendants streets were open. In absence of demarcation report that streets were closed, learned Courts below have rightly held that plaintiff has misled the Court to show that Municipal Council is taking action against the plaintiff pertaining to his property comprised in Khasra No.854/2. It is the specific case of Municipal Council that it is taking action against illegal encroachment made by plaintiff over public street in excess of his ownership right over Khasra No.854/2. In the absence of any material shown by plaintiff, rebutting the claim of defendant, no ground for interference is made out. Accordingly, the appeal is dismissed. The arguments raised on behalf of the plaintiff that there was no street is liable to be rejected on the ground that plaintiff himself in his site plan, Ex.P4 has shown the street and reliance upon Aks shijra has been rightly rejected by learned Courts below as Aks shijra pertained to land when it was being used for agricultural purposes and plots have not been carved out of it. In present case, suit property carved out is plot from agricultural land.

4. Petition is dismissed.

5. Pending miscellaneous application(s), if any, shall also stand disposed of.

07.08.2025

Janki

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No