



RSA-3319-2000

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**RSA-3319-2000 (O&M)
Date of decision : 7.5.2025**

Municipal Council, Bathinda

... Appellant

VERSUS

Vijay Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAINPresent: Mr. IPS Doabia, Advocate,
for the appellant.

None for the respondent.

PANKAJ JAIN, J. (Oral)

The defendant is in second appeal. The plaintiff filed suit for permanent injunction seeking restraint against the defendant from demolishing any part of the house of the plaintiff bearing Municipal No.5378 or boundary wall. Further challenge was laid to notice dated 3.1.1996 issued by the defendant under Section 172(2) of Punjab Municipal Act.

2. As per the plaintiff, earlier his father namely Kasturi Lal was also served with similar notices. Repeated suits were filed which were decreed in favour of his father Kasturi Lal. Kasturi Lal transferred portion of the house in favour of the plaintiff vide registered sale deed dated 16.3.1995. After the death of Kasturi Lal, the plaintiff became absolute owner of the house being legal heir of Kasturi Lal. The plaintiff has claimed that the construction having been raised in the plot owned by the plaintiff, the



RSA-3319-2000

2

impugned notice has been issued on a wrong premises i.e. of encroachment upon municipal land.

3. The suit was contested by the defendant. It was claimed that jurisdiction of the Civil Court was barred. Suit was not maintainable. It was further claimed that the plaintiff has made fresh encroachment as per report delivered by Shri Radha Krishan Building Inspector and the plaintiff has been found to have encroached area measuring 17 feet x 14 feet. The suit was put to trial and the following issues were framed : -

1. Whether the plaintiff is owner in possession of the suit property? OPP
2. Whether the impugned notice no.787/E dt. 3.1.1996 is illegal null and void? OPP
3. If issue no.1 and 2 are proved, whether the plaintiff is entitled to injunction prayed for? OPP
4. Whether the plaintiff has got no cause of action and locus standi to file the present suit? OPD
5. Whether the plaintiff has got no cause of action and locus standi to file the present suit? OPD
6. Whether the plaintiff was served with notice under section 172-A of Punjab Municipal Act, if so, its effect? OPD.
7. Relief.

4. Both the Courts below have returned concurrent findings holding that the plaintiff successfully proved his ownership over the land



RSA-3319-2000

3

beneath the construction and the defendant miserably failed to prove any encroachment upon the public land at the hands of plaintiffs.

5. Counsel for the appellant is not in a position to dispute that apart from Ex.D1 i.e. the report prepared by the building inspector, there is nothing on record to prove that the land beneath the construction raised by the plaintiff is a public street.

6. In view thereof, finding no merit in the present appeal, the same is hereby dismissed.

(PANKAJ JAIN)
JUDGE

May 7, 2025
Paritosh Kumar

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