

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 1878 of 2004

Date of Decision: 01.04.2015

Piare Lal

.....Petitioner

Vs.

Municipal Committee and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Harsh Aggarwal, Advocate,
for the petitioner.

Mr. Vineesh Singla, Advocate,
for respondent No. 1.

Mr. Arun Sharma, Advocate, for
Mr. Tejender Joshi, Advocate,
for respondents No. 2 to 10.

Mr. Surinder Garg, Advocate,
for the added respondents No. 11 to 23.

SABINA, J.

Petitioner has filed this petition challenging the order dated
11.12.2003.

I have heard learned counsel for the parties and have gone
through the record, available on the file carefully.

Petitioner had filed suit for permanent injunction restraining the
Municipal Committee from leasing out the public street from the Main
Bazar to Grain Market, Raman Mandi. The said suit filed by the petitioner
was decreed vide judgment/decreed dated 03.09.1977. Thereafter, petitioner

filed an application for initiation of contempt proceedings against the respondents.

On the pleadings of the parties, following issues were framed by the trial Court:-

- “1. *Whether the respondents are disobeyed the decree dated 03.09.77? OPP*
2. *Whether the contempt proceedings are liable to be initiated against respondents? OPP*
3. *Whether the application is within the limitation? OPP*
4. *Whether this Court has jurisdiction to try the present application? OPP*
5. *Whether the application has no locus-standi to file the application? OPR*
6. *Whether the application has no locus-standi to file the application? OPR.*
7. *Relief.”*

While deciding issue Nos. 1 and 2, the trial Court has observed as under:-

Issue Nos. 1 & 2

“14. *It is an admitted case of the parties that in a Civil suit filed by the plaintiff Piare Lal for restraining Municipal Committee, Rama from leasing out the Public Street 21' wide opposite to the shop of the plaintiff leading from main bazar to Grain Market*

situated at Raman Mandi was decreed by the Court vide its judgement and decree dated 03.09.1977 vide Exhibits A-2 and A-3. It is also a matter of record that Raj Rani to whom Plot No. 103-A was leased out, had filed a suit for permanent injunction restraining Municipal Committee, Raman from taking illegal and forcible possession of plot No. 103-A situated in Raman, which was decreed by the Court on 07.03.1996 vide judgment and decree Exhibits No. A-4 and A-5. In the judgment dated 07.03.1996 in Civil suit, titled Raj Rani vs. Municipal Committee, the Court of Hon'ble Sh. Amin Lal Khichi, PCS, Civil Judge (Jr. Division), Talwandi Sabo had in para No. 12 of the Judgment specifically held that the legal opinion Exhibit P-4 on the file reveals that site to be given on lease to the plaintiff Raj Rani is not part of the street, with regard to which injunction had been given by the Court vide its judgement dated 03.09.0977 in Piare Lal vs. Municipal Committee, Civil suit No. 138 dated 07.06.1976. In Raj Rani vs. Municipal Committee, a specific issue No. 3 had been framed as to whether the plot in suit cannot be given on lease to the plaintiff. In view of the judgment and decree dated 03.09.1977 passed by Sh. Niranjana Singh, PCS, Sub-Judge, Ist Class, Bathinda, the Hon'ble Court had given a finding that the leased plot to be given to Raj Rani did not form part of the Street with regard to which injunction had been given by the Court in Piare Lal vs. Municipal Committee.

15. Vide decree dated 03.09.1977, the Municipal Committee was restraining from putting to auction the public street straight away, described in para No. 1 of the plaint. The Municipal Committee had thus not violated the decree dated 03.09.0977 as the plot given to Raj Rani did not form part of the street with regard to which injunction had been given by the

Court in its Judgement Ex. A-1. Thus the Municipal Committee had not violated the decree dated 03.09.1977. The issues are accordingly decided against the applicant and in favour of the respondents.”

Thus, in the present case, the application moved by the petitioner was rightly dismissed as in a suit filed by Raj Rani for permanent injunction, it had been held that the property allotted to her did not form part of the street. The judgment and decree passed in favour of the petitioner was also considered by the trial Court while deciding the suit filed by Raj Rani for permanent injunction. Consequently, suit filed by Raj Rani was decreed vide judgment/decreed dated 07.03.1996.

In view of the decree passed in favour of Raj Rani, learned trial Court rightly held that the Municipal Committee had not violated the decree dated 03.09.1977.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

April 01, 2015
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