

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 325 of 2011(O&M)
Date of decision : January 28 , 2015

Municipal Council

..... Appellant

Versus

Shree Chatarbhuj Lilawati Trust (Regd.)

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. S. Kundu, Advocate
for the appellant.

Mr. Sanjiv Gupta, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

This Regular Second Appeal is directed at the instance of the appellant-defendant against the judgment and decree of the lower appellate court whereby the suit for declaration and permanent injunction has been decreed with liberty to the appellant-defendant to issue fresh notice after following the proper procedure.

Mr. R. S. Kundu, learned counsel appearing on behalf of the appellant-defendant contends that the trial court rightly dismissed the suit of the respondent-plaintiff as trial court has no jurisdiction to try the suit and therefore the judgment of the lower appellate court suffers from illegality, much less perversity as the

lower appellate court has misread and misconstrued the oral and documentary evidence, much less the law. He further contends that the suit of the respondent-plaintiff ex facie was not maintainable in view of Section 99 of Haryana Municipal Act, 1973 and in support of his contention relied upon a judgment of the Hon'ble Supreme Court in **Munshi Ram and others Vs. Municipal Committee, AIR (1979) SC 1250.**

Mr. Sanjeev Gupta, learned counsel appearing on behalf of the respondent-plaintiff in support of his arguments submitted that in view of the judgment rendered by this Court in **Jaswant Singh Virk Vs. Municipal Council, Karnal 2003 (3) RCR (Civil) 535** by relying upon the judgment of the Hon'ble Supreme Court in **Silliguri Municipality Vs. Amalendu Dass (1982) 2 SCC 436** and **Assistant Collector of Central Excise Vs. Dunlop India Ltd. (1985) 1 SCC 250** to contend that jurisdiction of the civil court for challenging the order of Municipal Corporation in raising demand of house tax is not ousted, much less barred.

Be that as it may, since the appellant-defendant has been given liberty to issue a fresh notice by following the procedure as noticed by the lower appellate court, no fault can be found with the finding rendered by the appellate court and the judgment and decree of the lower appellate court is most innocuous one. The appellant would be at liberty to issue a fresh notice by following due procedure, much less in accordance with law.

I do not find any illegality or perversity in the judgment of the lower appellate court.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 28, 2015
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