

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 1633 of 2012 (O&M)
Date of decision: 20.5.2015

Municipal Council Banga

.. Appellant

v.

Manohar Lal and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ashish Yadav, Advocate for the appellant.
Mr. Sandeep Jain, Advocate for the respondents.

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Rajesh Bindal J.

This order will dispose of three appeals bearing RSA Nos. 1633 and 1635 of 2012 and 6154 of 2014, as the issue involved in all the appeals is identical. However, the facts have been taken from RSA No. 1633 of 2012.

The respondents filed suit for permanent injunction restraining the appellant from raising any construction over the drain shown in the site plan annexed with the plaint. The suit was partly decreed by the trial court to the extent that the appellant-defendant was restrained from raising construction over the drain, however, liberty was given to the appellant that in future in case if so desires, it can raise construction for public welfare. Aggrieved against the aforesaid direction, the respondents filed first appeal before the lower appellate court, wherein the aforesaid direction was set aside and the suit was decreed in totality.

Learned counsel for the parties did not dispute the fact that identical issue came up for consideration before this Court in RSA No. 3733 of 2005—Municipal Council, Banga v. Raj Kumar Dua, which was

dismissed on 21.9.2007. The appeal therein was filed by the present appellant against identically placed respondent, as the respondents in the present appeals are.

As the identical judgment and decree in the case of Raj Kumar Dua has already been upheld by this court in the aforesaid judgment, I do not find any reason to take a different view in the present set of appeals.

No substantial question of law arises in the appeals. The same are, accordingly, dismissed. Consequently, the accompanying applications are also dismissed.

(Rajesh Bindal)
Judge

20.5.2015
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