

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

[215-1]

**RSA No.4365 of 2011 (O&M)
Date of Decision: 26.11.2015.**

Municipal Corporation, Ludhiana & another ...Appellants

Versus

Ajay Bector ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

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

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?* **Yes**
2. *To be referred to the Reporters or not?* **Yes**
3. *Whether the judgment should be reported in the Digest?* **Yes**

KULDIP SINGH, J.(ORAL)

Impugned in the present Regular Second Appeal is the judgment and decree dated 24.05.2011, passed by learned Additional District Judge, Ludhiana, whereby the judgment and decree dated 26.02.2010 of the trial Court were set aside and decree for mandatory injunction was passed directing the defendants-Municipal Corporation, Ludhiana to remove the garbage dump/ garbage collection centre shown in red color in the site plan Ex. P-1 and shift the same to some other suitable place within three months from the date of passing of this judgment and decree.

The dispute in the present case is that defendants-Municipal Corporation has constructed a dump garbage of 20'x20'

with 8' to 9' height at the disputed site. According to the claim of the plaintiff, this has been done in the Sarabha Nagar, Ludhiana which is one of the posh area of Ludhiana. It is further stated that a school called New Higher Senior Secondary School is also situated nearby having a strength of 2000 students. During rainy season the garbage is contaminated. It is also affecting the environment and is a source of nuisance.

Learned Civil Judge, Senior Division, Ludhiana vide judgment and decree dated 26.02.2010 dismissed the suit. However, the findings were reversed in appeal.

I have heard learned counsel for the appellant and have carefully gone through the file.

Learned counsel for the appellant has argued that the garbage dump/collection centre is required for collection of garbage and that garbage is being regularly removed and does not cause any nuisance. It is further submitted that now the work of collection of garbage has been given to private contractor and that garbage treatment plant is being installed on the out skirts of Ludhiana.

On the other hand, learned counsel for the plaintiff-respondent has argued that garbage is emitting foul smell and has become breeding ground for flies, mosquitos and insects and causing health hazard.

The Lower Appellate Court has found force in the contention of the plaintiff-respondent that if a garbage collection

centre is constructed in a locality, it is likely to be breeding ground for mosquitos and other insects and can cause health hazard for the locality. It is the duty of the Municipal Corporation to see that under the cover of the garbage collection centre, the health of the people of the locality, particularly students of the school, situated nearby, is not compromised.

The order of the Lower Appellate Court in fact implements the 'Swachh Bharat Abhiyaan' (Clean India) launched by the Government of India. Corporation should follow Clean India movement. Findings of facts have been recorded by both the Courts below. No substantial question of law arises.

Consequently, the present appeal stands dismissed.

November 26, 2015*Ankur***(KULDIP SINGH)
JUDGE**