

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

LPA No. 391 of 2015

DATE OF DECISION : 13.03.2015

Chhinder Pal Singh

.... APPELLANT

Versus

State of Punjab and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. A.D.S. Jattana, Advocate,
for the appellant.

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SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 13.02.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 3367 of 2014) filed by the appellant seeking direction to restrain Municipal Council, Sri Muktsar Sahib (respondent No.2 herein) from demolishing part of his house, adjoining the office building of the respondent Council, has been dismissed while making the following observations :-

“It appears that house of the petitioner is adjoining the official building of Municipal Council, Sri Muktsar Sahib. Perusal of site plan, Annexure R1 shows that petitioner has extended the boundary of his house into the premises of Municipal Council, Sri Muktsar Sahib. Area measuring about 48’ – 6” x 9’ is shown as red

in colour in the site plan which is the encroachment. According to record, petitioner is owner in possession of khasra number 1259 only and has encroached to the extent of 48'-6" x 9' in khasra no. 4520/1311/1. Municipal Council, Sri Muktsar Sahib has relied on jamabandi, Annexure R2 in support of his contention. It appears that petitioner also filed a suit for permanent injunction before the civil court at Muktsar Sahib. However, same was dismissed on 29.05.2013 (Annexure R4). Before civil court, Municipal Council, Muktsar Sahib had taken the same stand that revenue record consisting of missal haqiat etc. clearly showed that encroached area was in-fact ownership of the Municipal Council. In the facts and circumstances of the case, I am of the considered view that there is no ground to interfere in writ jurisdiction. Dismissed."

We have heard learned counsel for the appellant and have gone through the impugned order.

Undisputedly, with regard to the portion of the house of the appellant, which is going to be demolished as per the notice issued by the respondent Council, a civil suit for permanent injunction was filed by the appellant. The said suit was dismissed. The claim of the appellant regarding his ownership and possession over the disputed part of the house was rejected. After dismissal of the said civil suit, when the respondent Council was going to demolish part of the illegal construction raised, the appellant filed the aforesaid writ petition, which in our opinion was not maintainable at all, particularly when the appellant had already lost the civil suit. It has been stated that the Regular Second Appeal against the judgment of the dismissal of the aforesaid civil suit of the appellant is pending before this

Court. In spite of this, the appellant filed the aforesaid writ petition with an oblique motive. In our opinion, the learned Single Judge has rightly dismissed the said petition, particularly in view of the findings recorded by the civil court. We do not find any reason to interfere with the impugned order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

March 13, 2015
ndj

(HARINDER SINGH SIDHU)
JUDGE