

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4482 of 2014(O&M)
Date of decision : December 8, 2015

Municipal Corporation Faridabad

.....Appellant

Versus

Kanwaljit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Mohnish Sharma, Advocate
for the appellant.

Mr. M. L. Sarin, Senior Advocate with
Mr. Nitin Sarin, Advocate
for the respondents.

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).

The appellant-Municipal Corporation is aggrieved of the judgment and decree passed by the lower appellate court whereby the corporation has permanently been restrained from demolition of wall of the respondents-plaintiffs and has also been directed to decide and consider the request of the respondents-plaintiffs, for grant of CLU. It is the aforementioned direction, which has been assailed by the Municipal Corporation on the premise that no such relief has been sought in the suit.

Mr. Mohnish Sharma, learned counsel for the appellant submits that the lower appellate court could not have

granted the relief as no such relief has been sought in the plaint as it is beyond the pleadings, thus, there is illegality and perversity in the findings rendered by the lower appellate court, therefore substantial question of law arises for determination by this Court.

Mr. M. L. Sarin, learned Senior counsel assisted by Mr. Nitin Sarin, Advocate submits that the trial court, though, enjoined the appellant-defendant not to demolish the wall except in due course of law. It is the aforementioned judgment and decree which has been assailed by the respondents-plaintiffs as the wall could not have been demolished even without resorting to the provisions of Section 250 and 251 of Haryana Municipal Corporation Act, 1994.

He further submits that the court can always mould the relief and in this regard relies upon the judgment in **Gaiv Dinshaw Irani and others Vs. Tehmtan Irani and others 2014(2) RLR 667.**

I have heard learned counsel for the parties and appraised the paper book.

There is no dispute to the proposition of law laid down by the Hon'ble Supreme Court in **Gaiv Dinshaw Irani 's case (supra)** that the court can always mould the relief.

Taking into consideration the peculiar facts and circumstances of the case, since the respondents-plaintiffs have submitted a request for grant of CLU, in my view, such a direction is most innocuous and cannot be said to be onerous.

In view of the aforementioned facts, I do not find any illegality and perversity in the judgment and decree of the lower appellate court.

The appeal stands dismissed. The appellant shall be at liberty, much less directed to consider the case of the respondents-plaintiffs for grant of CLU in accordance with law within a period of four months from the date of receipt of copy of the order.

(AMIT RAWAL)
JUDGE

December 8, 2015
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