

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

**Civil Writ Petition No. 6622 of 2016
Date of Decision: 9.9.2016**

Sudarshan Kumar

.....Petitioner

Vs.

Cantonment Board, Ferozepur Cantt and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. K.B. Raheja, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Instant writ petition is directed against the order dated 6.10.2015 (Annexure P-2) passed by the learned Additional District Judge, Ferozepur, whereby it was ordered that respondent-Cantonment Board, Ferozepur, shall be at liberty to take action against the property in dispute as per the order passed by this Court in RSA No. 3341 of 2013, filed by the petitioner, which was pending before this Court at that point of time.

Heard learned counsel for the petitioner.

It is a matter of record that abovesaid RSA No. 3341 of 2013, filed by the present petitioner, has been disposed of by this Court vide order dated 17.8.2016 and operative part thereof, reads as under:-

“I have heard learned counsel for the parties, appraised the paper book and of the view that no doubt the judgment and decree passed by the lower Appellate Court is in favour of the appellant-defendant but the finding given in paragraph 18 of the impugned judgment and decree is against him. Once the appellant-defendant had

been paying the taxes to the Cantonment Board and they did not take any action in view of the fact that the Board was made party as defendant No.2 in the suit but they did not contest the suit, nor filed the written statement, in essence, their defence was struck off. Even if at all, the Cantonment Board in its wisdom thinks that the entire construction of the house has been raised in the Cantonment area, they can take action as per the law but not by pick and choose policy. In view of the aforementioned, the lower Appellate Court ought not to have given such kind of directions and the directions issued by the lower Appellate Court in paragraph 18 of its judgment and decree are hereby expunged. Both the regular second appeal and the contempt petition are disposed of with the above observations.”

In view of the above, impugned order dated 6.10.2015 (Annexure P-2) has not been found suffering from any patent illegality or perversity and the same is upheld. However, the respondent Cantonment Board would be at liberty to proceed further in view of the abovesaid observations made by this Court in its order dated 17.8.2016, taking appropriate action, strictly in accordance with law.

Disposed of, accordingly.

9.9.2016
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No