

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6290 of 2017 (O&M)
Date of decision: 22.09.2017

Capt. Sarabjit Singh Dhillon

... Petitioner

Vs.

Municipal Corporation, Jalandhar

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Kamaljit Singh Dhillon, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Instant civil revision petition, under Article 227 of the Constitution of India, is directed against the order dated 05.08.2017 (Annexure P-4) passed by the learned Additional District Judge, whereby statutory appeal of the petitioner under the relevant provisions of Municipal Corporation Act was dismissed, upholding the action of the respondent-Municipal Corporation.

Heard learned counsel for the petitioner.

It has gone undisputed on record that the petitioner raised construction without obtaining any sanction or approval from the competent authority of the respondent-Municipal Corporation. In his cross-examination, while appearing as PW1, petitioner himself has admitted that he did not get approved any site plan from the respondent-Municipal Corporation before raising the construction. Petitioner has covered the public passage corridor by

raising construction in front of his booth No.1. The only justification furnished by the petitioner even before this Court is that since other shopkeepers have raised similar construction, petitioner also carried out the construction at the site. However, this can never be a justified ground to permit the petitioner to indulge in raising illegal construction. In this view of the matter, the learned Additional District Judge rightly passed the impugned order, dismissing the appeal of the petitioner and the same deserves to be upheld.

Another submission of learned counsel for the petitioner was that show cause notices (Annexures P-1 and P-2) were not issued by the competent authority, but the same has also been found wholly misplaced, which is not worth acceptance. It is so said because the Commissioner of respondent-Municipal Corporation was very much competent to delegate his powers under Section 408 (2) of the Punjab Municipal Corporation Act, which has been reproduced by the learned Additional District Judge in para 12 of the impugned order. It is not even the pleaded or argued case on behalf of the petitioner that Commissioner of respondent-Municipal Corporation did not delegate his powers to the officer, who issued notices (Annexures P-1 and P-2). Once it is so, no fault can be found either with the Commissioner, while delegating his powers nor any illegality can be attached with the notices (Annexures P-1 and P-2).

In fact, petitioner was trying to built up his case on technicalities alone. Once the petitioner as PW1 has clearly admitted in his cross-examination that he raised the construction in the public passage without any kind of permission or approval from the competent authority of the

respondent-Municipal Corporation, he had no case right from day one. Petitioner had no business to block the public passage in the manner he has done. Under these circumstances, it can be safely concluded that the learned Additional District Judge committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order passed by the learned Additional District Judge has been found based on sound reasons and the same deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since no illegality or perversity has been found in the impugned order, the same deserves to be upheld. The revision petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

22.09.2017
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No