

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

RSA No.2877 of 2016 (O&M)

Date of decision : 03.08.2017

Harinder Kaur

...Appellant

Versus

Municipal Council, Moga

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajesh Bhatheja, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The defendant is the appellant in the present Regular Second Appeal.

The Municipal Council, Moga had filed a suit for mandatory injunction directing the defendant to demolish the structure built illegally in excess to the approved building plan.

Both the Courts below have concurrently found that the building constructed by the defendant-appellant is not in accordance with the sanctioned building plan. Courts have further found that in spite of notices, defendant did not demolish the un-sanctioned portion.

Counsel for the appellant has argued that since suit had been filed through the Executive Officer who was not authorized, therefore, the suit was not maintainable.

I have seen the issues framed by the Courts. The defendant-

appellant never claimed such issue before the trial Court. Now at the stage of Regular Second Appeal, defendant cannot be allowed to urge that the suit was filed by an official who was not authorized.

In this case, the Courts have ordered the demolition of building which is in violation of the approved building plan. Such direction is in the public interest.

Finding no merit in the present Regular Second Appeal, the same is dismissed.

03.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No