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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

COCN No.1665 of 2015(O&M)

Date of Decision: 12.02.2018

LABH SINGH (NOW DECEASED) THROUGH HIS LR

..... PETITIONERS

VERSUS

DEVENDER KUMAR AND OTHERS

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Ms. Janya Sirohi, Advocate for
Mr. Akshay Kumar Jindal, Advocate
for the petitioner.

Mr. Chirag Kundu, Advocate
for respondent No.1.

Mr. Mandeep Singh Khillan, Advocate
for respondent Nos.2 and 3 alongwith
Mr. Varun @ Arun Sharma, respondent No.3.

JASWANT SINGH, J. (ORAL)

A suit bearing Civil Suit No.206 of 1990 filed by Shri Labh Singh-deceased (plaintiff therein) against the Municipal Committee, Nilokheri and the Administrator, Nilokheri, for permanent injunction over the suit land, measuring 87 feet x 20 feet was decreed by learned Sub Judge III Class, Karnal, vide its judgment and decree dated 21/23.08.1990 (**Annexure P-1**) by holding plaintiff-Shri Labh Singh to be owner by way of adverse possession and further restraining the Municipality from interfering in his peaceful possession.

Thereafter, the Municipal Committee, Nilokheri, filed appeal against the judgment and decree dated 23.08.1990 **(P-1)**, which was partly accepted by learned Additional District Judge, Karnal, vide its judgment and decree dated 08.12.1992 **(Annexure P-2)**, whereby the finding of ownership by adverse possession was set aside, however, the defendant-Municipal Committee, Nilokheri, was restrained from interfering in the possession of the plaintiff over the suit property except due course of law.

Aggrieved with the order of the Appellate Court dated 08.12.1992 **(P-2)**, Shri Labh Singh, (deceased) filed an appeal bearing RSA No.594 of 1993 which was admitted by this Court vide order dated 22.07.1993 and the *status quo* was ordered.

The respondents-Municipal Committee, Nilokheri issued notice dated 13.07.1993 to Shri Labh Singh (deceased) *under Section 186(2) of the Haryana Municipal Act, 1973* for removing the structure over the land as prescribed therein.

Thereafter, Shri Labh Singh (now deceased) filed a civil miscellaneous application in the aforesaid Regular Second Appeal bearing *CM No.2135-C of 1993 in RSA No.594 of 1993* for granting interim injunction in view of order dated 22.07.1993, while admitting the appeal, *status quo* was ordered to be maintained. Upon notice of the application, after hearing both the counsel for the parties, this Court vide order dated 16.09.1993 **(Annexure P-4)** had passed the following operative directions:-

“ *The defendant-respondents shall not interfere with the possession of the appellant except in due course of law.* ”

That on 14.05.2015, the officials of the Municipality have

demolished the construction in the suit land measuring 87 feet x 20 feet, hence, the present contempt petition by the LRs of Shri Labh Singh, who is since died.

On the previous date of hearing, the following order was passed:-

“ Court has been apprised that pursuant to order dated March 09,2017, Ms. Komal, Chairman, Municipal Committee, Nilokheri, Tehsil and District Karnal, is present in court. Secretary of the Committee has also attended the court. It is admitted by the Municipal Committee that construction in the suit land has been demolished by the Committee in violation of the order passed by the court. It is, thus, evident that officials of the Committee are guilty of wilful disobedience of the orders passed by court. They, however, pray for some time to apprise the court about the names of the officials who were on the site and acted in violation of the orders passed by the court. One opportunity is granted.

To come up for further hearing on 12.02.2018. ”

Mr. Devender Kumar, the then Secretary-cum-Executive Officer, Municipal Committee, Nilokheri, Tehsil and District Karnal is present in Court and states that the responsibility of undertaking the demolition work is/was of the Municipal Engineer alongwith Building Inspector after obtaining prior approval from the Secretary of the Municipal Committee and issue of proper notice to the affected parties. He concedes that in the present case the then Building Inspector and Municipal Engineer did not follow the procedure and have to be considered to be responsible for undertaking the said unauthorized demolition; and in violation of contempt of the interim order dated 16.09.1993 passed by this Court.

After hearing learned counsel for the parties and scrutinizing the pleadings, it is apparent that the respondents are guilty of violating the

directions contained in the order dated 16.09.1993. However, the respondents at the time of hearing have shown their inclination to purge the contempt by offering compensation for the demolished structure as also inconvenience caused to the petitioner. Accordingly, this Court is of the opinion that the ends of justice would be met if a sum of Rs.4 lacs assessed as compensation is paid by the Municipal Committee, Nilokheri to the petitioners within one month from the date of receipt of the certified copy of the order towards full and final settlement of his claim.

Ordered Accordingly.

Rule is discharged.

February 12, 2018
'rajneesh'

(JASWANT SINGH)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>