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

**RSA No.1954 of 1994 (O&M)
Date of Decision: April 23, 2018**

Municipal Committee, Sangrur ...Appellant

Versus

Chuni Lal ..Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. K.S. Sidhu, Senior Advocate
with Mr. A.S. Sandhu, Advocate
for the appellant.

None for the respondent.

FATEH DEEP SINGH, J.

The short point that permeates in this appeal is to the effect whether respondent the then plaintiff could forego the provisions of Section 68-A of the Punjab Municipal Act, 1911 (in short, 'the Act') and straightway invoke the jurisdiction of the Civil Court by filing a suit for permanent injunction, whereby, appellant-respondent Municipal Committee, Sangrur (in short, 'the Committee') is trying to effect recovery of the house-tax from the plaintiff. The essential facts are that plaintiff Chuni Lal claims to be occupier of unit No.B-V/3530 which was assessed to house-tax for the years 1986-87, 1987-88 and 1988-89 failed to pay the municipal tax so levied by the defendant-Committee and when the authority tried to make recovery of the amount had filed suit for permanent injunction restraining the defendants from effecting this recovery and enforcing order dated

12.8.1986 passed by the House-Tax Committee for recovery of this amount. The Court of learned Additional Senior Sub Judge, Sangrur through judgment dated 12.6.1991 dismissed the suit of the plaintiff, however, on appeal the Court of learned Additional District Judge, Sangrur through impugned judgment dated 27.1.1994 allowed the appeal, setting aside judgment of the trial Court and that is how the present appeal has come about.

Appreciating the arguments put forth by the learned counsel for the appellant and on perusal of records. The Act has been constituted to make better provisions in the administration of municipalities in the State of Punjab, and thus, extends to the territories of the State of Punjab. The provisions of Section 69 read with Section 37 of the Act mandates that any clerical error in transcribing or otherwise on the face of the records needs to be protected from being scrutinised by the Court and, therefore, acts as a buffer for impeachment or affecting by reason of any mistake in the particulars where tax is liable. Section 68-A of the Act lays down power of the civic authority to amend assessment list in certain cases and by virtue of sub-section(2) any person aggrieved by order of prescribed authority may within a period of 30 days of the date of communication of the order file an appeal to the State Government and covers those class of cases where property has been included in the assessment list but has been erroneously valued or assessed which certainly covers the case of the plaintiff as well in the light of the averments in his case. Furthermore, as is highlighted from the records and the averments of the learned counsel for the appellant there has been utter violation of the mandatory provisions of

Section 49 of the Act which casts an onerous duty upon the plaintiff before institution of such a suit to have served upon the defendant-Committee one month notice in writing and which too has not been adhered to and, therefore, leaves lot to be desired on the part of the plaintiff. As has been laid down in catena of case law where statutory remedy is available then remedy of Civil Court may not be available ***2001(3) RCR (Civil) 621 Balawwa vs. Hasanabi*** and ***2017(5) RCR (Civil) 75 Darbara Singh and another vs. State of Punjab and others*** and since neither there has been due service of prior notice upon appellant as to this wrong assessment by the defendants as has been resorted to, the suit is highly uncalled for. In the impugned findings the Court below has taken a lackadaisical approach for a motivated cause and merely on the ground that any house-tax assessment in violation of Section 67 of the Act has to be treated as illegal and unenforceable in law has bestowed upon the Civil Court jurisdiction and, thus, set aside the assessment in question without elucidating any reasons how the same was illegal and unenforceable and in violation of Section 67 of the Act. The impugned judgment is certainly illegal in its finding and perverse in its approach necessitating intervention by this Court and needs to be set aside by way of acceptance of the present appeal.

(FATEH DEEP SINGH)
JUDGE

April 23, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No