

The respondents/defendants filed the written statement and, in turn, have controverted the averments set up in the plaint. It is pleaded that the appellant is using the shop for keeping LPG cylinders which is dangerous and nuisance to the neighbours. He is not tenant over the roof of shop which is exclusively owned by the answering defendants.

Perusal of the findings recorded by the Courts would reveal that plea of the plaintiff seeking permanent injunction was dismissed primarily on the ground that suit property has been demolished by the Municipal Council, Bhiwani under the orders passed by the Deputy Commissioner, Bhiwani, therefore, plea of the appellant/plaintiff to seek injunction has been rendered infructuous.

Counsel for the appellant has not disputed factual findings recorded by the Courts. On the contrary, he has fairly conceded that suit filed by the appellant to challenge action of the Municipal Council, Bhiwani for demolishing shop in question has also been dismissed. In this view of the matter, no error much less perversity can be found in consistent findings recorded by the Courts, negating plea of the plaintiff/appellant for grant of injunction.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay of 194 days in re-filing the appeal is of academic relevance.

(Rekha Mittal)
Judge

09.10.2018
mohan bimbura

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