

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

RSA No.6249 of 2015 (O&M)

Date of decision : 30.05.2018

Municipal Council, Derabassi

...Appellant

Versus

Hem Raj and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajiv Joshi, Advocate for the appellant.

Mr. Pankaj Katia, Advocate for respondent Nos.1 to 4.

ANIL KSHETARPAL, J. (ORAL)

This appeal and rather the entire litigation instituted by Municipal Council, Derabassi is misusing the process of the Court. In fact, this Court considers that the litigation was initiated only to help the defendants who are in unauthorized possession of the public property.

The plaintiff-Municipal Council had filed a suit for permanent injunction claiming that they are owners in possession and the defendants be restrained from interfering in the development work being carried out by the plaintiff. The land in dispute is in two adjoining parcels, one consisting of 3 bighas and second consisting of 10 bighas. The Municipal Council, Derabassi, filed the proceedings for eviction of the defendants from these two parcels under the relevant Public Premises Act. Obviously unauthorized possession of the defendants was admitted. With respect to 10 bighas of

land, the eviction order was passed on 12.04.2012. The proceedings were initiated against one Babu Ram. However, the defendants filed an application for being impleaded as party which was rejected. Thereafter, appeal was filed by the defendants which was dismissed by the Appellate Authority vide judgment dated 11.06.2013. It is not in dispute that the aforesaid order has become final and no further appeal has been preferred. With respect to 3 bighas of land, eviction proceedings were initiated against the defendants and learned Collector on 30.11.2012 ordered the eviction. Even that order has become final but still the possession of the defendants is being protected on the pretext that this litigation is pending. No reasons have been given as to why the order passed by the authorities under the Public Premises Act have not been implemented. When the plaintiff-appellant filed an appeal before this Court, order of status quo was obtained. Since, this Court took pro-active action so as to remove the unauthorized possession from a public property, entire facts came on record. Neither the order of eviction passed with respect to the land measuring 10 bighas nor the order of eviction passed with respect to land measuring 3 bighas were brought on the record of the Courts below.

Learned counsel for the respondents was granted opportunity when the photocopy of the order was produced in this Court and he after taking instructions from his clients has admitted these orders have become final.

In view of the aforesaid, the present Regular Second Appeal is disposed of with a direction to the Municipal Council, Derabassi to immediately take over the possession of the property as the defendants-

respondents do not claim any right, title or interest in the property. In para 2 of the written statement, the ownership of the Municipal Council is admitted.

It is further directed that the Director Local Bodies, would hold an enquiry against the officials and identify the officials who were instrumental in prolonging the unauthorized possession of the defendants. The Director Local Bodies would also identify as to who took the decision to file the present suit. The Director Local Bodies would also examine why the orders passed by the competent authority under the Public Premises Act have not been acted upon. The report on this entire aspect be submitted to this Court within a period of three months.

The Registry would put up this case before the Court after a period of three months on 07.09.2018.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

Let a copy of the order be sent to Director Local Bodies, Punjab for compliance.

30.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No