

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision: 06.08.2018

1. RSA No.5308 of 2017

Executive Officer

..... Appellant

Versus

Jasvir Kaur and another

..... Respondents

2. RSA No.3595 of 2017

Executive Officer

..... Appellant

Versus

Devinder Pal Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. M.S. Viridi, Advocate
for the appellant (in both cases).

ANIL KSHETARPAL, J.

Vide this judgment, I shall be disposing of two regular second appeals bearing RSA No.5308 of 2017 and RSA No.3595 of 2017 which are connected.

In the considered opinion of this Court, both the appeals filed are wholly misconceived. The Municipal Council, Khanna has filed these appeals against the decree passed by both the Courts below.

It is not in dispute that the plaintiffs-respondents purchased the property through registered sale deed of the year 2000. However, without issuing any notice to the plaintiffs-respondents, the officials of the Municipal Council came to demolish the property on the ground that the

construction is beyond the building plan sanctioned. Both the Courts found that the notice issued to the erstwhile owner after he had sold the property more than 10 years ago would not be proper. In the considered opinion of this Court, rather than filing the present appeal, the appellant ought to have issued a proper notice if permissible under law and take action. However, rather than taking the aforesaid recourse, the present appeals have been filed. It is the findings of the Courts below that the respondents-plaintiffs purchased the constructed shops. In such circumstances, it was incumbent upon the Municipal Council to at least issue notice, if maintainable, against the respondents before taking any action.

In view thereof, there is no ground to interfere with the orders passed by the Courts below.

Both the appeals are dismissed.

06.08.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No