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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/4/2019 17:27
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CR-2741-2019 (O/M)
Date of decision : 29.4.2019

Meena Rani

..... Petitioner (s)

Versus

Uma Shankar Gupta and others

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Kashish Garg, Advocate,
for petitioner.

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KULDIP SINGH, J. (ORAL)

Heard.

It comes out that Vidya Devi (plaintiff) filed a suit for permanent injunction against Commissioner, Municipal Corporation, Bathinda and Executive Officer, Municipal Corporation, Bathinda, for restraining them from dispossessing her from any portion of House No. 30009, and also forcibly dispossessing her. The suit was decreed and defendants were restrained from dispossessing plaintiff from any portion of said house and also demolishing any portion of said house, except in due course of law. The decree was passed on 1.6.2010. Thereafter, Municipal Corporation issued notice to plaintiff on 8.8.2013 under Section 269 (1) of the Municipal Corporation Act, 1976, for demolition of portion of house. Now, demolition order has been passed.

The learned counsel for petitioner contends that Vidya Devi died on 23.4.2012 and notice was issued to dead person and, therefore, it is nullity. The question before this Court is as to whether decree has been violated or not ? In the decree, defendants were at liberty to adopt due course of law.

The plea of learned counsel for petitioner is that notice was issued to a dead person. In this way, though, defendants have adopted due course of law, but plaintiff challenges the legality of that process. In this way, it cannot be said that due course of law was not adopted. Moreover, appeal against said judgment and decree is pending. In said appeal, present petitioner can always raise available pleas and seek stay. There is no violation of decree. As such, there is no illegality or infirmity in impugned order. Thus, revision is dismissed.

(KULDIP SINGH)
JUDGE

29.4.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No