

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

280

RSA-2764-2014 (O&M)

Date of decision: 23.01.2020

MUNICIPAL CORPORATION FARIDABAD

... Appellant

Versus

EAST INDIA COTTON MANUFACTURING CO LTD ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Jasbir Mor, Advocate for the appellant.
Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Shekhar Verma, Advocate
for the respondent.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against judgments and decrees passed by the Courts whereby suit for permanent and mandatory injunction filed by East India Cotton Manufacturing Co. Ltd. (in short 'the company') against its liability to pay water charges, house tax, sewerage charges and fire tax etc. was decreed by the trial Court and defendant (appellant herein) was restrained perpetually from recovering water charges, house tax, sewer charges and fire tax etc. with a further direction to release the bank guarantee given in compliance of order dated 18.01.2007.

The appellate Court, in appeal filed by Municipal Corporation, Faridabad (hereinafter referred to as 'the Corporation') dismissed the appeal while affirming findings of the trial Court in respect of respondent company being not liable to pay water charges but the Court did not determine liability towards house tax with the findings that matter is pending before Consumer Dispute Redressal Forum and no order is required to be passed in this regard.

Perusal of judgment of the appellate Court would reveal that the Corporation raised an issue with regard to jurisdiction of the civil Court but the same was not adverted to by the appellate Court while disposing of the appeal. The major amount involved in the present litigation pertains to

payment of house tax i.e. more than Rs.12 lakh. Counsel for the respondent would inform that matter pending before the Consumer Forum already stands disposed of on 20.09.2005 and the matter with regard to liability of payment of house tax has not been decided by the said forum though the said fora passed an interim direction with regard to furnishing of security to secure interest of the Corporation. In the given circumstances, the matter needs remittance to the first appellate Court to decide the question of house tax and any other liability except water charges as well as jurisdiction of civil Court. As a natural corollary, decree and judgment passed by the appellate Court is set aside subject to observations made hereinabove and the matter is remitted to the said Court for decision of appeal afresh, in terms indicated hereinbefore. The parties through their counsel are directed to appear before the appellate Court, successor Court of Sh. RN Bharati, the then Additional District Judge, Faridabad on 07.02.2020. The Court shall decide the question of house tax etc. and jurisdiction of civil Court within a period of three months of parties putting in appearance.

After decision of appeal, the Corporation would be at liberty to challenge findings of appellate Court on the question of water charges decided vide judgment impugned or any other issue emerging out of the judgment to be passed afresh. Of course, the company would always be at liberty to raise a grievance, if any, against judgment to be passed by the appellate Court, in accordance with law.

23.01.2020

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No