

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Cr No. 3258 of 2021

Date of Decision: December 14, 2021

**Municipal Council, Sohna**

.... Petitioner(s)

**Versus**

**D & A Stores**

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Lokesh Sinhal, Advocate  
for the petitioner.

Ms. Kirti Singh, DAG, Haryana.

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**LISA GILL, J. (Oral)**

Prayer in this revision petition is for setting aside order dated 09.08.2021 (Annexure P-1), whereby application under Order 7 Rule 11 CPC, filed by the petitioner has been dismissed.

Respondent/plaintiff filed a suit for permanent injunction claiming to be the owner in possession of the property as described therein claiming that the said property developed by Ansal Housing & Construction Ltd. was allotted to the plaintiff vide the sale deeds as detailed therein. Notice issued by the present petitioner-Municipal Council (defendant) for demolition of the construction was stated to be issued in an absolute illegal manner with the specific pleading that defendant had no right to issue such type of notice, neither had it any right to demolish any part of the

construction over the suit land, which was the exclusive property of the plaintiff and furthermore, the plaintiff was not in violation of any law while raising construction. Present petitioner/defendant filed an application under Order 7 Rule 11 CPC seeking dismissal of the suit on the ground that the plaintiff has sought relief of permanent injunction and challenged a notice under Section 208 of the Haryana Municipal Act, 1973 (hereinafter referred to as 'the Act'), issued by the defendant for demolition of illegal construction raised by the plaintiff, whereas the Civil Court had no jurisdiction to try the present suit in terms of Section 208 of the Act. Said application filed by the petitioner/defendant was dismissed by the learned Civil Judge (Jr. Division), Sohna while specifically noting that the defendant/applicant itself admitted that notice was issued to the plaintiff under Section 181 of the Haryana Municipal Act, therefore, it cannot claim that jurisdiction is barred under Section 208 of the Act. Aggrieved therefrom present revision petition has been filed.

I have heard learned counsel for the petitioner.

The factum of filing of civil suit by the respondent/plaintiff for permanent injunction, as above is a matter of record. It is to be noticed at this stage that as per the written statement filed on behalf of the petitioner-Municipal Council before the learned trial Court, it is specifically stated that petitioner is the owner of the suit land with the suit property being Shamlat Deh vesting in the Municipal Committee as per Mutation no.18932 and that litigation regarding the same was pending before the National Green

Tribunal. Learned counsel for the petitioner has referred to order dated 23.07.2021, Annexure P-4, passed by the Executive Officer, Municipal Council, Sohna during pendency of the civil suit wherein it is observed by the Executive Officer that the plaintiff failed to indicate his entitlement as owner of the property and has encroached upon the land measuring 17 Kanal, 1 Marla owned by the Municipal Council, Sohna. Respondent-plaintiff was directed to demolish the farmhouse in question within seven days vide said order dated 23.07.2021, passed by the Executive Officer, Municipal Council, Sohna, while exercising powers under Section 181 of the Act.

Learned counsel for the petitioner is unable to deny that proceedings against the plaintiff/respondent are conducted under Section 181 of the Act, as has been observed by the learned Civil Judge (Jr. Division), Sohna, therefore, application under Order 7, Rule 11 CPC, filed by the petitioner on the ground that jurisdiction of the Civil Court is barred, has been correctly rejected. Argument of learned counsel that notice is also under Section 208 of the Act, thus plaintiff's suit should have been rejected, is devoid of any merit. In the given factual matrix, it cannot be said that plaintiff's suit is barred, therefore, justifying rejection of the plaint at the threshold. Impugned order dated 09.08.2021, has thus been correctly passed by the learned Civil Judge (Jr. Division), Sohna.

No other argument has been raised.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 09.08.2021, passed by learned Civil Judge (Jr. Division), Sohna, which calls for interference by this Court in exercise of revisional jurisdiction.

Revision petition is accordingly dismissed with no order as to cost. There is no expression of opinion on the merits of the matter and the observations are only for the purpose of decision of the present petition.

December 14, 2021

Sunil

(Lisa Gill)  
Judge

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