

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-51 of 1999 (O&M)
Date of decision: 08.09.2022

Municipal Committee

..Appellant

Versus

Mohan Lal and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Nikita Garg, Advocate
for the appellant.

Mr. Shobit Phutela, Advocate, for
Mr. A.R.Takkar, Advocate
for respondent no.1 to 3 and 5 to 7.

Mr. Gautam Sehgal, Advocate
for respondent no.4.

ANIL KSHETARPAL, J(Oral)

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh, is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in **Pankajakshi (Dead) through LRs vs. Chandrika and others, (2016) 6 SCC 157.**

2. The Municipal Committee Nurmahal, has filed the present appeal, challenging the judgment and decree passed by the First Appellate Court on 07.05.1998, while dismissing the appeal filed by it on the ground that same has not been properly instituted as no resolution has been placed on the file. The cross objections filed by the defendants were also dismissed.

3. The appellant being a local self government has been created to serve the residents of the area. In fact, the respondents, while filing the suit, sought decree of declaration that the order passed by the Collector evicting

them under the Public Premises and Lands (Eviction and Rent Recovery) Act, 1973, is illegal. The trial court decreed the suit only in favour of plaintiff no.2.

4. During the course of hearing, the learned counsel representing the appellant has produced a copy of Resolution no.72 dated 13.09.1993, which is taken on record, authorizing its Executing Officer to file the suit. It has been asserted that inadvertently, the aforesaid resolution was neither mentioned in the grounds of appeal nor produced before the First Appellate Court.

5. The facts of the case clearly depict a very sorry state of affairs in the management of the Municipal Committee. A body which has been elected to serve the residents of the area has failed to protect the public interest and public property.

6. Keeping in view the aforesaid facts, the judgment under challenge is set aside.

7. The matter is remitted back to the First Appellate Court to examine the correctness of the resolution and thereafter, decide the appeal.

8. Before concluding, the Chief Secretary, Punjab, is directed to hold an enquiry into the entire affairs concerning this matter and initiate a suitable action against the defaulting elected office bearers as well as the officers of the Municipal Committee. Nurmahal, responsible for such negligent and callous behaviour.

9. Disposed of accordingly.

10. Let a copy of the resolution be remitted to the First Appellate Court for deciding the appeal.

11. All the pending miscellaneous applications, if any, are also disposed of.

September 08, 2022

(ANIL KSHETARPAL)
JUDGE

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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>