

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.136 of 2020 (O&M)

Pronounced on: 17.04.2023.

Gurkirpal Singh

.....Petitioner

Versus

Municipal Corporation, Ludhiana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Appellant in person.

Mr. Ashok Kumar Brar, Advocate
for respondents No.1 and 2.

VIKRAM AGGARWAL, J.

CM-641-LPA-2020

For the reasons mentioned in the application as well as arguments addressed, the same is allowed and correct pages of Index-i, ii and page 3 and 4 of the abovesaid LPA and copy of order dated 19.08.2015, are taken on record subject to just exceptions.

CM-2708-LPA of 2022

For the reasons mentioned in the application as well as arguments addressed, the same is allowed and petitioner's statement dated 05.12.2022, copy of document dated 06.07.2021 and reminder dated 28.12.2018, are taken on record subject to just exceptions.

CM-2565-LPA of 2022

For the reasons mentioned in the application as well as arguments addressed, the same is allowed and documents as mentioned in the prayer clause, are taken on record subject to just exceptions.

CM-368-LPA of 2020

There is delay of 144 days in filing the appeal. Though, the application does not specify the detailed reasons for the delay, keeping in view the fact that the

appellant appears in person and also keeping in view the interest of justice, the delay of 144 days in filing the appeal is condoned.

LPA No.136 of 2020

1. By way of the present appeal, the appellant challenges the judgment dated 16.07.2019, vide which the writ petition filed by the appellant was dismissed.

2. Briefly put, the facts are that the appellant who is stated to be a resident of House No.456-B, Bhai Randhir Singh Nagar, Ludhiana is aggrieved of illegal construction being raised by respondent No.3 who is a resident of House No.451-B, Bhai Randhir Singh Nagar, Ludhiana.

3. Challenge in the writ petition was laid to the order dated 26.08.2002 (Annexure P2) (reference to Annexures hereinafter shall indicate reference to Annexures with the writ petition) passed by the Additional District Judge, Ludhiana, vide which the appeal filed by respondent No.3 under Section 269(2) of the Punjab Municipal Corporation Act, 1976, against the demolition order dated 03.09.2001 was allowed and the demolition order was set aside. It was averred in the writ petition that the appellant had filed a civil suit for permanent injunction restraining the respondents from raising any construction without plans having been sanctioned and against the Building Laws. Mandatory injunction was also sought directing the respondents to demolish the illegal construction raised by respondent no.3 in the shape of ground-floor and first-floor covering a major part of the open back courtyard and elevating the boundary wall to a height of 26 feet abutting the house of the appellant. The suit was partly decreed on 24.04.2007 restraining respondent No.3 to make further construction except in accordance with law. Civil appeal was filed which was dismissed on 21.01.2008. Regular Second Appeal was also dismissed on 19.03.2008 and SLP was also dismissed by the Hon'ble Apex Court.

3. It is the further case of the appellant that since illegal construction had been raised by respondent No.3, order of demolition was passed on 03.09.2001

(Annexure P-16). However, in appeal, vide the judgment dated 26.08.2002 (Annexure P-2), this order was set aside by the Additional District Judge, Ludhiana.

4. The writ petition was opposed by the respondents. The official respondents also made reference to the civil suit filed by the appellant, the appeal filed against the decision in the civil suit followed by the Regular Second Appeal and the SLP. It was averred that the property of the appellant as also that of respondent No.3 were situated in the sanctioned development scheme of Bhai Randhir Singh Nagar. It was averred that the order dated 26.08.2002 (Annexure P-2) was legal and valid. It was admitted that respondent No.3 had initially raised construction on the ground-floor and first-floor without prior permission for which action was initiated but subsequently the construction was compounded on charging requisite composition fee. Respondent No.3 also filed a separate reply taking the same grounds.

5. The learned Single Bench, after considering the matter, dismissed the writ petition leading to the filing of the present appeal.

6. The appellant who appears in person basically seems to be aggrieved of the construction raised by his neighbour i.e. respondent No.3, whose house is situated at the back of the house of the appellant. He made efforts to convince the Court that the judgment of the learned Single Bench and the order dated 26.08.2002 (Annexure P-2) are not sustainable.

7. We have considered the submissions made by the appellant but find the same to be devoid of merits. It is an admitted fact that the appellant lost the initial litigation up to the Hon'ble Apex Court. He was granted liberty by the Hon'ble Apex Court vide judgment dated 19.08.2015 to challenge the order dated 26.08.2002 (Annexure P-2) before the competent Court in accordance with law. The order dated 26.08.2002 (Annexure P-2) does not suffer from any illegality. The Additional

District Judge duly considered all the facts. It was also noticed that the official

respondent had duly accepted the composition fee and that there was no evidence of any misrepresentation by respondent No.3 or that it had not been proved that respondent No.3 had deposited the sum of ₹ 36,513/- on his own by practising any misrepresentation. In fact it was found that the proforma/order regarding deposit of composition fee was signed by the Building Inspector, Head Draftsman, Building Superintendent and thereafter by the Commissioner. Under the circumstances, the demolition order was rightly set aside. The learned Single Bench also noticed all these facts and dismissed the writ petition. From the material on record, the arguments addressed by the appellant and upon perusal of the impugned order, we do not find any reason to interfere in the order dated 26.08.2002 (Annexure P-2) or in the judgement of the learned Single Bench. The appellant was not able to make out a case and was therefore rightly non-suited.

8. In view of the aforementioned facts and circumstances, we do not find any merit in the present appeal and the same is, therefore, dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Pronounced on 17.04.2023.

rekha sharma

Whether speaking/reasoned : *Yes/No.*
Whether reportable : *Yes/No.*