

**2023:PHHC:160719**

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

**RSA No.879 of 2019  
Date of Decision: 13.12.2023**

Sohan Singh

...Appellant

Versus

Anil Mohindru and another

...Respondents

**CORAM:    *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

Argued by:- Mr. Sachin Kalia, Advocate appearing for  
Mr. R.S. Bajaj, Advocate  
for the appellant.

\*\*\*\*\*

**MEENAKSHI I. MEHTA, J.**

Feeling aggrieved by the judgment and decree passed by learned Additional Civil Judge (Senior Division), Jalandhar (for short 'the trial Court') on 06.11.2017, whereby the Civil Suit filed by the appellant-plaintiff (here-in-after to be referred as 'the plaintiff') for seeking a decree for permanent injunction to restrain respondent-defendant No.1 and his family members from raising the construction on the suit property illegally and in contravention of the bye-laws of respondent-defendant No.2-Corporation, with the further prayer for grant of the relief of mandatory injunction, by way of directing defendant No.2 to demolish the unlawful construction raised by defendant No.1 and his family members on the said property, has been dismissed as well as by the judgment and decree rendered by learned Additional District Judge, Jalandhar (for short 'the Lower Appellate Court') on 26.09.2018, dismissing the appeal filed by the plaintiff to assail the judgment and decree dated 06.11.2017, he (plaintiff) has preferred the instant Regular Second Appeal to lay challenge to the same.

2. I have heard learned counsel appearing for the appellant-plaintiff in the present appeal, at the preliminary stage and have also gone through the file carefully.

3. Concededly, the house of the plaintiff adjoins the plot/property of defendant No.1 and he (plaintiff) has averred that he had given his consent for the sanction of the site-plan in respect of the plot of defendant No.1, by defendant No.2-Corporation and at that time, defendant No.1 had assured him that he would construct the basement in his plot at a distance from the backside wall of his (plaintiff's) house but however, he (defendant No.1) started digging the land under/beneath the afore-said back wall and raised the construction in his plot, in violation of the bye-laws of defendant No.2 and also in contravention of the sanctioned site-plan.

4. Admittedly, defendant No.2 had issued the notice to defendant No.1 under Section 279 of the Punjab Municipal Corporation Act, 1976 for the removal of unauthorized construction as raised by him in his plot and had also issued another notice under Section 270 of the said Act, directing him therein to stop further construction at the spot. The trial Court and the Lower Appellate Court have categorically observed in Paras No.14 in their respective judgments that DW1 Tejpreet Singh, Municipal Town Planner, had submitted his affidavit in the Contempt Petition, as moved by the plaintiff in this Court, deposing therein that the unauthorized construction, raised by defendant No.1, had been demolished and the remaining construction, as existing at the spot, was well within the compoundable limits of the municipal bye-laws. It being so, it is explicit that the cause of action did not survive in the favour of the plaintiff to seek the relief, as prayed for in the above-referred Civil Suit.

5. As a sequel to the fore-going discussion, it follows that the impugned judgments and decrees, as handed down by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity, so as to warrant any interference by this Court. Resultantly, the same are upheld and the Regular Second Appeal in hand, being *sans* any merit, stands dismissed.

**13.12.2023**  
neetu

**(MEENAKSHI I. MEHTA)**  
**JUDGE**

*Whether speaking/reasoned:*      *Yes*  
*Whether Reportable:*              *Yes*