IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

***

RSA-1806-1992(O&M)
Date of decision : 21.11.2024

Public Middle School, Jaithu

... Appellant

Versus

Municipality, Jaitu

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Surinder Garg, Advocate
for the appellant.

VIKAS BAHL, J.(ORAL)

CM-8503-C-2024

1. This is an application under Order 41 Rule 19 read with Section 151 CPC for recalling the order dated 18.07.2024 and to restore the appeal to its original number.

2. Notice was issued in the application and as per the report of the Registry, the sole respondent has been served. However, no one has appeared on behalf of the respondent.

3. For the reasons stated in the application, which are unopposed, the same is allowed and the order dated 18.07.2024 is recalled and the appeal is ordered to be restored to its original number.

RSA-1806-1992

1. The present appellant-plaintiff had filed a suit on 03.06.1989

for declaration to the effect that assessment order dated 24.02.1989 passed by the defendant and demand notice dated 07.03.1989 issued by the defendant Committee was null, void, inoperative and illegal and further the defendant was sought to be restrained from recovering the house tax for the years 1985-86 to 1988-89 amounting to Rs.7112/- in pursuance of demand notice dated 07.03.1989 and assessment order dated 24.02.1989.

2. The suit was dismissed and the appeal filed by the present appellant was also dismissed. The present regular second appeal was filed and on 03.08.1993, the appeal was admitted. Thereafter on 27.08.1993, a Coordinate Bench of this Court was pleased to pass the following order:-

> *"Present: Mr.J.R. Mittal, Sr. Advocate with*
> *Mr. Surender Garg, Advocate.*
>
> *Mr.S.C. Pathela, Advocate.*
>
> . . . .
>
> *After hearing the learned counsel for the parties, I am of the view that no recovery be made of the amount of House Tax during the pendency of the appeal. However, the appeal be heard at a very early date.*
>
> *27.8.1993."*

A perusal of the above order would show that it was observed by the learned Single Judge that no recovery would be made of the amount of house tax during the pendency of appeal.

3. As has been observed hereinabove, in spite of the notice having been issued to the respondent and the respondent having been served, no one has appeared on behalf of the respondent. Since the amount involved is Rs.7112/- and since the interim order has continued since 27.08.1993, the respondent does not seem to be interested to contest the present appeal.

4. Keeping in view the abovesaid facts and circumstances, the present appeal is disposed of with the observation that the respondent would be restrained from recovering the house tax in pursuance of the impugned assessment order dated 24.02.1989 and demand notice dated 07.03.1989. However liberty is granted to the respondent to revive the present appeal, in case the respondent is wanting to proceed against the present appellant for recovery of the house tax in question.

(VIKAS BAHL)
JUDGE

November 21, 2024.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No