

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

RSA-2080-1992
Date of decision: 09.02.2024

MUNICIPAL COMMITTEE, NARNAUL & ANR. ..Appellants

Versus

DASHRATH KUMAR AND ANR ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pritam Singh Saini, Advocate
for the appellant.

Mr. Shashikant Gupta, Advocate
for respondent No.1.

Mr. Vikas Lochab, Advocate
for respondent No.2.

ANIL KSHETARPAL, J(Oral)

1. This regular second appeal has been filed by the defendant (Municipal Committee, Narnaul).
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
3. The respondents (plaintiffs before the trial Court) filed suit for grant of decree of declaration that they are owners in possession of the suit property and resolution No.249 dated 31.10.1984, passed by the Municipal Committee, Narnaul, is illegal and the plaintiffs are entitled to get their building plans sanctioned. The defendants while contesting the suit claimed that the suit property is owned and possessed by the Municipal Committee, Narnaul and not by the plaintiffs, who have no right, title or the interest in the same. The trial Court has dismissed the suit after coming to the

conclusion that the plaintiffs have failed to prove their ownership. The plaintiffs filed the first appeal. The First Appellate Court wrongly shifted the onus to on the appellants- Municipal Committee, Narnaul, to prove their title, however, ultimately, the First Appellate Court found that the plaintiffs have failed to prove any right, title or interest in the same except their possession. After coming to this conclusion, the Appellate Court partly decreed the suit and held that the plaintiffs are entitled to get their building plan sanctioned.

4. This regular second appeal was filed to challenge the correctness of the judgment passed by the First Appellate Court. During all this while, the building plan of the respondents (plaintiffs before the trial Court) has not been sanctioned. The learned counsel representing the Municipal Committee, Narnaul, submits that the Municipal Committee will take steps to prove their entitlement and seek eviction of the respondents in accordance with law.

5. The learned counsel representing the respondent No.1 has no objection to the aforesaid proposal.

6. Issue No.1, framed vide order dated 02.09.1985, reads as under:-

“1. Whether the plaintiffs are owner in possession of the suit land, as alleged? OPP”

7. Thus, in this case, there was no issue as to whether the property belongs to the Municipal Committee or not. Hence, the findings arrived at by the First Appellate Court to the effect that the Municipal Committee has failed to prove the ownership is set aside.

8. With these observations, the present appeal is disposed of.

9. The parties shall have liberty to avail their remedy.
10. All the pending miscellaneous applications, if any, are also
disposed of.

February 09th, 2024
Ay

(ANIL KSHETARPAL)
JUDGE

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