

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 614 of 1992

Date of Decision: 20.02.2024

Smt. Channo Devi

... Appellant(s)

Versus

The Municipal Committee, Budhlada and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Karan Singla, Advocate
for the appellant(s).

Mr. Vikram Preet Arora, Advocate
for the respondent No.1.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab and 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 v. Chandrika and Others (2016) 6 SCC 157*.

2. In this regular second appeal, the correctness of the concurrent findings of facts arrived at by both the Courts below is challenged by the plaintiff.

3. The plaintiff filed a suit for the grant of decree of permanent injunction restraining the Municipal Committee from recovering the house tax on the basis of the notice dated 10.06.1987 with respect to the property

comprised in unit No. 463, situated at Budhlada. She claimed that she has

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already deposited the house tax. Both the Courts below, on appreciation of the evidence, came to a conclusion that there is no substance in the plaintiff's case for the following two reasons:-

- i) She has made part payment, and
- ii) The period of limitation for assessing the arrears of house tax is three years and if it is not paid, then it creates a charge on the property.

4. The First Appellate Court has relied upon the judgment of the Division Bench of this Court in *Municipal Committee, Bhatinda v. Jaswant Rai and Others (1990) SCC Online (Punjab and Haryana) 217* to conclude that after the house tax, which has been assessed within the period of limitation, is not paid, the same creates a charge on the property and the period of recovery is 12 years.

5. The learned counsel representing the appellant has failed to draw attention of this Court to any judgment which overruled the judgment passed by the Division Bench in *Municipal Committee, Bhatinda's case (supra)*.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

February 20, 2024
"DK"

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