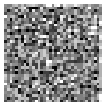


IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

2024.PHHC:074166



RSA-1367-1994
Date of decision: 24.05.2024

NAGAR PALIKA BHATINDA ..Appellant

Versus

GURCHARAN KAUR ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjeev Soni, Advocate
and Mr. Sarthak Soni, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. This is defendants regular second appeal against the judgment passed by the First Appellate Court, which in turn has reversed the judgment passed by the trial Court. The plaintiff (respondent herein) filed suit for permanent injunction claiming to be in possession of the property, whereas, Municipal Committee, Bathinda, claims that the property is a public property and it has been encroached upon by the plaintiff. The trial Court dismissed the suit, however, the First Appellate Court has reversed the judgment on the ground that the notice under Section 172(2) of the Punjab Municipal Act, 1911, was wrongly served on the plaintiff's husband and not on the plaintiff.

2. On 23.04.2024, the following order was passed:-

“This is an old appeal which has come up for hearing after a period of 30 years.
The learned counsel representing the appellant submits that the respondent had removed the encroachment on her own and as of now the encroachment on the public road does not exist. However, if the appeal is dismissed, the respondent, who has been granted decree by the First Appellate Court, may again try to encroach upon the same.

The respondent is not represented before this Court.
Hence, the office is directed to issue dasti notice to the respondent, for 24.05.2024.
To be listed in the urgent list.”

3. As per the office report, notice issued to the sole respondent has been received back served through her daughter, however, she remains unrepresented.
4. Keeping in view the aforesaid facts, the appeal is disposed of with the observation that if the respondent once again tries to encroach upon the land on the basis of decree passed by the First Appellate Court, the appellant shall have liberty to file an application for revival of this appeal.
5. All the pending miscellaneous applications, if any, are also disposed of.

May 24th, 2024
Ay

(ANIL KSHETARPAL)
JUDGE

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