

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2460 of 1994 (O&M)

Date of Order:19.04.2024

Municipal Committee, Sangrur

.Appellant

Versus

Jagdish Chander and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S.Sidhu, Sr. Advocate, with
Mr. Praagbir S. Dhindsa, Advocate
Mr. Kartik Bansal, Advocate
for the appellant.

Ms. Richa Sharma, Advocate, for
Mr. Amar Vivek, Advocate
for respondent no.1

ANIL KSHETARPAL, J

1. This is the defendants' regular second appeal against the concurrent findings of fact arrived at by the courts below while decreeing the plaintiffs' suit for the grant of decree of permanent injunction restraining the Municipal Committee from demolishing the shop in dispute through force and without due process of law.

2. At the outset, it may be noted here that there are no allegations that the plaintiffs have encroached upon any public property. In fact, this is not the issue in the present case. The only allegation against the plaintiffs is that they have reconstructed front wall of the shop without getting the building plan sanctioned.

3. In this case, it has been found that the plaintiffs constructed the

shop in the year 1955. The front wall of the shop was demolished by the officials of the Government which was re-erected. It has been found by both the courts below that the notice sent by the Municipal Committee is not a valid notice.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

5. The learned counsel representing the appellant submits that both the courts below have erred in granting injunction against a public body restraining it from regulating construction of the buildings in the area. He submits that the court should be slow in granting injunction against the public authority.

6. This court has considered the submissions of the learned counsel representing the parties.

7. It may be noted here that it is not the case of the appellant (defendant) that the shop which has been constructed is not in accordance with building bye laws. It is also not the case of the Municipal Committee that the building has been constructed by the plaintiffs on a public property or it does not belong to the plaintiffs.

8. In such circumstances, after a passage of such long time, it would not be appropriate to permit the appellant to demolish the building which will result in national wastage. However, the appellant shall have the liberty to recover compounding charges/fine along with the fee for construction of the building, if so advised. However, the respondents shall have the liberty to prove that no new construction has been raised.

9. Keeping in view the aforesaid facts and discussion, the regular second appeal is disposed of.

10. All the pending miscellaneous applications, if any, are also disposed of.

April 19, 2024

nt

(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO