



In the High Court of Punjab and Haryana, at Chandigarh

1. Second Appeal Order No. 46 of 2019 (O&M)

Municipal Corporation, Gurugram

... Appellant(s)

Versus

Smt. Asha Devi and Others

... Respondent(s)

AND

2. Second Appeal Order No. 47 of 2019 (O&M)

Municipal Corporation, Gurugram

... Appellant(s)

Versus

Deepak and Others

... Respondent(s)

DATE OF DECISION: 03.04.2025

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Raman Sharma, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. With the consent of the learned counsel representing the appellants, two connected second appeals i.e. Second Appeal Order No. 46 of 2019 and No. 47 of 2019 against the First Appellate Court's order shall stand disposed of by this common order.

2. Smt. Asha Devi and Deepak filed two separate suits for the grant of the decree of declaration with the consequential relief of permanent injunction against the Municipal Corporation, Gurugram, while alleging

that they have not been granted an opportunity of hearing before ordering demolition of their respective property. In substance, the Municipal Corporation claims that the building has been constructed in violation of the Rules.

3. It is also claimed by the Municipal Corporation that the order of demolition was passed after the notices were issued to the occupiers. The plaintiffs, in both the suits, claim that they are the owners of the property and they have never been given an opportunity of hearing.

4. An application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908, to reject the plaint was allowed by the Trial Court, which, in appeal, was reversed by the First Appellate Court.

5. After having heard the learned counsel representing the appellant(s), this Court is of the opinion that the solution to the problem lies in granting an opportunity to the plaintiff(s). Hence, the learned counsel was given this offer. He submits that he has instructions to make a statement that the Municipal Corporation, Gurugram, is prepared to grant proper opportunity of hearing to the plaintiff(s).

6. It would be noticed here that in similar matters of Municipal Corporation, Gurugram, i.e. Second Appeal Order No. 18 of 2013 and Second Appeal Order No. 39 of 2013, filed by the Municipal Corporation in identical situation, the following order was passed:-

“1. On 24.03.2025, the following order was recorded:-

"These two Second Appeals against the orders passed by the First Appellate Court have come up for hearing. The trial court rejected the plaint on an application filed by

the Municipal Corporation, Gurugram under Order VII Rule 11 of the Code of Civil Procedure, 1908, which in appeal has been reversed by the First Appellate Court. The Municipal Corporation, Gurugram claims that two separate suits filed by the plaintiff are not maintainable under Section 261 of the Haryana Municipal Corporation Act, 1994, which excludes the jurisdiction of the civil court. Learned counsel representing the respondents (plaintiffs) submits that before ordering demolition of the property, opportunity of hearing was not given to the plaintiffs. This Court has considered the submissions made by the learned counsel representing the parties. Two civil suits can be disposed of if the Municipal Corporation, Gurugram grants the plaintiffs an opportunity of hearing. Hence, an offer has been made to the counsel representing the Municipal Corporation, Gurugram, which has been accepted. Learned counsel representing the plaintiffs prays for a short accommodation to seek instructions. He is directed to seek instructions whether the plaintiffs are prepared to withdraw their suits if the Municipal Corporation, Gurugram grants them a fresh hearing. List on 26.03.2025, in the urgent list. No further request for an adjournment shall be entertained. A photocopy of this order be placed on the file of the other connected case."

2. *Today, after taking instructions from learned counsel representing the parties, the counsels have come to a consensus. They jointly state that the plaintiffs will withdraw both the suits, if Municipal Corporation, Gurugram gives opportunity of hearing to the plaintiffs before proceeding further.*

3. *Learned counsel representing the Municipal Corporation submits that the plaintiffs may appear before the Municipal Commissioner, Gurugram on 02.04.2025 at 10.30 A.M.*

4. *Hence, both the appeals and Civil Suits No. 1139 of 2020 and 1141 of 2020 are disposed of.*

5. *The office is directed to forward a copy of the order to the trial Court for compliance.”*

7. Keeping in view the aforesaid facts, both the appeals are disposed of while granting liberty to the appellant to file an application to this effect before the Trial Court requesting the disposal of the case(s). Once, an application is filed, the Trial Court shall pass an appropriate order, in accordance with law.

8. The miscellaneous application(s) pending, if any, in both the appeals, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

April 03, 2025
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No