



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(202)

RSA No. 2534 of 1997 (O&M)

Reserved on : 02.02.2026

Pronounced on: 19.02.2026

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Harbans Singh**...Appellant****Versus****Municipal Committee, Hoshiarpur****...Respondent****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present:- Mr. Udeyveer Singh Brar, Advocate
for the appellant.

Mr. Manish Dadwal, Advocate
for the respondent.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal has been preferred by the appellant-plaintiff against the judgment and decree dated 17.04.1997 passed by the learned Additional District Judge, Hoshiarpur, whereby the appeal filed by the respondent-defendant/Municipal Committee was allowed and the well-reasoned judgment and decree dated 04.03.1994 passed by the learned Sub Judge IInd Class, Hoshiarpur, decreeing the suit of the plaintiff, was set aside.

BACKGROUND FACTS

2. The facts, as culled out from the record, are that the appellant claims to have purchased 10 marlas of land forming part of Khasra No. 800 (total measuring 11 kanals 8 marlas), situated in Mohalla Premgarh, Hoshiarpur, vide registered sale deed (Ex.P1) dated 19.02.1988 (registered on 20.12.1988) from one Parkash Singh, a co-sharer in the said khasra. The appellant asserts that he raised construction (a room and boundary walls) on the suit plot in early 1989



without obtaining prior sanction from the respondent-Municipal Committee. He further claims to have obtained water and sewerage connections from the respondent-Municipal Committee upon payment of dues, and resided therein without objection until the impugned notice dated 28.02.1990 under Sections 195, 195-A and 172 of the Punjab Municipal Act, 1911 was issued, alleging unauthorised construction and directing demolition of the same. The appellant-plaintiff challenged the said notices by filing a suit for declaration and permanent injunction.

3. The respondent-Municipal Committee contested the suit, contending that the suit land falls within Town Planning Scheme No. 13, sanctioned by the President of India vide notification dated 28.12.1987 (Ex. D6), and is reserved as a green park adjoining a public road. The construction was detected as unauthorized on 27.02.1990 during an inspection by the Building Inspector namely Darshan Singh Walia (PW1), who submitted the report (Ex. D1) to the Municipal committee, leading to notice dated 28.02.1990 under Sections 195, 195-A, 172, and subsequently 220 of the Act. It was pleaded that no site plan was submitted for sanction, the appellant is a mere co-sharer in the undivided khasra without exclusive possession, and the Committee has the statutory power to restrict land use in unbuilt areas without acquiring ownership or paying compensation.

4. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following issues for determination, with a view to secure a precise, coherent, and legally structured adjudication of the controversies arising in the matter:-

- 1. Whether the notice dated 28.02.1990 issued under sections 195, 195-A and Section 172 of Punjab Municipal Committee Act is illegal, and Void etc? OPP*



2. *Whether the plaintiff is entitled to injunction Prayed for? OPP*

3. *Relief.*

5. Both parties were afforded full and adequate opportunity to adduce evidence in substantiation of their respective claims and defences. Upon the culmination of the evidentiary proceedings, and after hearing learned counsel for the parties at length, The learned Trial Court, upon consideration of the pleadings and evidence, decreed the suit vide judgment dated 04.03.1994, holding the impugned notice illegal on the grounds that the construction was completed in 1989, water and sewerage connections were provided by the respondent-defendant (implying condonation), and no violation of rules was established. Issues Nos. 1 and 2 were decided in favor of the appellant-plaintiff.

6. Aggrieved by the judgment and decree so rendered by the learned Trial Court, the respondent-defendant preferred an appeal before the learned additional District Judge, Hoshiarpur. The learned first appellate court reversed the findings, dismissing the suit vide judgment dated 17.04.1997. It held that the suit land is part of the reserved green park under Town planing Scheme No. 13, the construction was unauthorized without sanctioned plans, the appellant's vendor (Parkash Singh) could not alienate a specific portion without partition among co-sharers, and the respondent-defendant (Municipal Committee) has the right to demolish under the Act without becoming the owner. Reliance was placed on *Tejinder Singh Bawa v. State of Punjab, 1996(2) RRR 675* emphasizing restriction on land use near public roads. Dissatisfied with the same, the appellant-plaintiff have filed the present appeal for seeking decretal of the suit.

CONTENTIONS



7. Learned counsel for the appellant assailed the judgment of the first appellate court, contending that it erred in reversing the decree passed by the learned Trial Court. It was argued that the appellant had lawfully purchased the plot in question from Parkash Singh on 20.12.1988, raised construction thereon, and had thus acquired ownership and settled possession, disentitling the respondent from seeking demolition or eviction. It was further submitted that the notice for demolition was issued beyond six months from the completion of construction in early 1989 and was, therefore, barred by limitation under Section 195 of the Act. The grant of water and sewerage connections was stated to operate as an estoppel against the respondent from alleging any illegality in the construction. Reliance was placed upon *Amar Singh v. Municipal Corporation, Hissar, 1986(1) MCC 365*, and *Tejinder Singh Bawa v. State of Punjab, 1995(2) PLR 578*, to contend that the statutory limitation protects completed constructions and that the applicability of the town planning scheme to the suit land had not been duly established. On these premises, it was urged that the appellant was entitled to the relief of injunction.

8. On the other hand, learned counsel for the respondent-defendant (Municipal Committee) controverted the aforesaid submissions, asserting that the six-month limitation prescribed under Section 195 of the Act is confined to cases of procedural irregularities, such as construction raised without a sanctioned plan, and has no application to land reserved under Town Planning Scheme. It was submitted that the suit land stands earmarked as a green park adjoining a public pathway under Town Planning Scheme No. 13, adopted by the Committee on 19.10.1982, and squarely falls within the regulatory domain of the Municipal Committee under Sections 3(18), 192, and 275 of the Act.

Consequently, no injunction can be granted against the removal of illegal



construction raised over land reserved for public purpose. Reliance was placed on *Ragbir Singh v. State of Punjab*, 2004 (3) RCR (Civil) 152; *Municipal Committee v. Om Parkash and another*, 2010 (3) RCR (Civil) 502; and *Municipal Council v. APJ School and another*, 2015 (46) RCR (Civil) 287, to submit that the public authorities are duty-bound to protect such property notwithstanding any delay.

OBSERVATIONS AND FINDINGS

9. I have heard learned counsel for the appellants and respondent with due thoroughness and have undertaken a meticulous and comprehensive examination of the entire record.

10. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of Punjab Courts Act, 1918 and not under Section 100 of CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of '*Pankajakshi (Dead) through LRs and others V/s Chandrika and others*', (2016)6 SCC 157, followed by the judgments in the case of '*Kirodi (since deceased) through his LR V/s Ram Parkash and others*' (2019) 11 SCC 317 and '*Satender and others V/s Saroj and others*', 2022(12) Scale 92. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

Statutory Scheme and Legislative Intent

11. At the outset, it is apposite to reiterate the statutory framework for building regulations, sanctions, and enforcement against unauthorized constructions. Sections 189 to 195 of the Punjab Municipal Act, 1911 constitute a composite regulatory framework which empower the municipal committees to regulate urban development, prevent encroachments, and ensure compliance with town planning schemes, while



imposing procedural safeguards like time limits on notices. Section 189 of the Act prohibits building without sanction and reads as follows:

"189. Prohibition of building without sanction.- (1) No person shall erect or re-erect or commence to erect or re-erect building without the sanction of the committee.

(2) Notice of building:- Every person who intends to erect or re-erect a building shall give notice in writing to the committee of such intention."

(3) Building by laws:- A committee shall by bye law-

(a) prescribe the manner in which notice of the intention to erect or re-erect a building shall be given to the committee;

(b) require that with every such notice shall be furnished a site plan of the land on which it is intended to erect or re-erect such building and a plan and specification of the building of such character and with such details as the bye-laws may require;

(c) where the building appears likely to be used as a factory, require the provisions of adequate housing accommodation in connection therewith.

(4) where bye-laws have been framed under this section no notice under subsection (2) shall be considered to be valid until the information, if any, required by such bye-laws has been furnished to the satisfaction of the committee.

Provided that the Executive Officer shall not without the approval of the committee, sanction the erection or re-erection of any building which involves any projection or encroachment over or upon any land vested in the committee or any land, the property of Government, which has been transferred to the committee for management:

Provided further that if the Executive Officer refuses to sanction the erection or re erection by any person of any building exception the ground that such erection or re-erection would be in contravention of any bye-law or of any general scheme sanctioned by the Commissioner restricting the erection or re-



erection of buildings or any class of building, such person may, within fifteen days from the date of the service of the Executive officer's order refusing to sanction such erection or re-erection appeal to the committee, and the committee's decision shall, subject to the provisions of section 22, 232 and 236, be final]"

12. Section 189 of the Act embodies the mandatory requirement of prior sanction before commencement of any building activity within municipal limits. The provision is designed to ensure planned development and to prevent unauthorised constructions by subjecting all erections and re-erections to the supervisory control of the Municipal Committee. The obligation to give prior notice, submit site plans, and comply with prescribed bye-laws is not procedural in nature but goes to the root of the legality of construction. When read with Section 190, which empowers the Committee to frame comprehensive building regulations, Section 189 operates as a statutory safeguard to ensure conformity with planning norms, public safety, and protection of public land.

13. Further, Section 192 allows the committee to prepare "building schemes" for unbuilt areas, restricting land use for public purposes like parks or roads without acquiring the land. In the instant case, the suit land falls under such a scheme (Ex. D6), rendering any construction thereon not just unsanctioned but fundamentally contrary to the statutory reservation. Turning to Section 195, enables the Committee to direct removal or alteration of a building constructed without sanction, provided action is taken within six months from completion. The legislative intent behind Section 195 is to provide a reasonable temporal framework for municipal action in cases of unauthorised construction on land otherwise capable of lawful construction.

The provision cannot be read in isolation or elevated to the status of a validating



clause for illegal construction over land on which construction cannot be raised on account of land being reserved for specific purpose. Section 195 reads as under:

“195. Penalty for disobedience:- Should a building be begun, erected or re-erected.-

(a) without sanction as required by section 189(1); or

(b) without notice as required by section 189(2) ; or

(c) when sanction has been refused;

the committee may by notice delivered to the owner within six months from the completion of the building, require the building to be altered or demolished as it may deem necessary within the period specified in such notice; and should it be begun or erected:

(d) in contravention of the terms of any sanction granted; or

(e) when the sanction has lapsed; or

(f) in contravention of any bye-law made under section 190; or in the case of a building of which the erection has been deemed to be sanctioned under section 193(4), if it contravenes any scheme sanctioned under section 192;

the [committee] may by notice to be delivered to the owner within six months from the completion of the building require the building to be altered in such manner as it may deem necessary, within the period specified in such notice:

Provided that the committee may, instead of requiring the alteration or demolition of any such building, accept by way of compensation such sum as it may deem reasonable:

Provided also that the committee shall require a building to be demolished or altered so far as is necessary to avoid contravention of a building scheme drawn up under section 192:

[Provided further that if any notice is issued by the Executive Officer under this section on the ground that a building has been begun or has been erected in contravention of the terms of any sanction granted or in contravention of any bye-



law made under section 190 the person to whom the notice is issued may, within fifteen days from the date of service of such notice, appeal to the committee, and subject to the provisions of sections 225, 232 and 236, the decision of the committee shall be final.”

14. Section 195 provides the enforcement mechanism for violation of Sections 189, 190 and 192. It authorises the Municipal Committee, by prescribing a period of six months for issuance of notice in respect of buildings raised without sanction, without notice, despite refusal of sanction, in deviation of sanctioned plans, or in contravention of bye-laws or schemes under Section 192. However, this limitation is not absolute or inflexible in all cases. A distinction must be drawn between

(i) constructions on land otherwise capable of lawful private use where the infraction is primarily procedural (such as absence of sanctioned plan), and

(ii) constructions on land statutorily reserved for public purposes like a green park under a notified town planning scheme framed under Section 192.

In the former category, the six-month period provides finality to prevent prolonged uncertainty. In the latter, the violation is substantive, as it contravenes the statutory reservation itself, and the limitation does not operate to preclude action or to confer legitimacy.

15. As held in ***Raghubir Singh v. State of Punjab, 2004 (3) RCR (Civil) 152***, the six-month limitation under Section 195 is not sacrosanct where the construction is contrary to a town planning scheme reserving land for public amenities such as parks. The provision presupposes a lawful underlying right to construct; where no such right exists due to statutory reservation for public use, efflux of time does not validate the construction or bar municipal action to



protect and manage the reserved public property. The Municipal Committee remains duty-bound to restrict unauthorised use, invoke powers under Section 195 against such occupants, and safeguard the land reserved for park under the scheme. The six-month bar for demolition action under Section 195 cannot apply to restrict the writ jurisdiction of the High Court under Article 226 or the general powers of injunction of civil courts, as public interest in preserving reserved public spaces overrides such procedural limits and demands protection of collective rights. Similar view has been taken in the judgment of ***Municipal Committee v. Om Parkash and another, 2010 (3) RCR (Civil) 502***. The relevant portion of judgment in ***Raghubir Singh(Supra)*** is reproduced as under:

“Para 14. It is true that action under Section 195 of the Act, regarding demolition of unauthorised construction or to regularise the same by accepting compensation from the defaulter, can be taken by a Municipality within a period of six months from the completion of the building. The second proviso to the aforementioned provision mandates that if the construction has been raised in contravention of the Building Scheme drawn up under Section 192 of the Act, then the Committee shall require such building to be demolished or altered, namely, no such construction can be regularised by accepting payment of compensation from the defaulter.

Para 15. As regards to the plea taken by Respondent No. 4 that the Municipality could take action for demolition, alteration or regularisation of his authorised construction only before the expiry of a period of six months of the date of completion of such construction, in my view, the same is totally misconceived. This provision does not and cannot impinge upon the powers of this Constitutional Court from exercising its extra ordinary writ jurisdiction irrespective of the expiry of any amount of period of an unauthorised construction. Even the powers of the Civil Court to issue mandatory injunction, if so required,



for removal of unauthorised construction after expiry of period of six months of such construction, are un-affected.”

.....(emphasis added)

16. In the present case, the appellant himself admitted in cross-examination before the trial court that no site plan was ever submitted or sanctioned by the Municipal Committee under Section 189 of the Punjab Municipal Act, 1911, and no receipt for sanction fee or approved building plan exists. Critically, the suit land is undisputedly covered by Town Planning Scheme No. 13 (Ex. D6 – sanction order of the President of India as described in drawing No. DTP-J-117/68 dated 19.10.1982, adopted by the Committee on 28.12.1987), which reserves the area as a green park/public open space in an unbuilt area. The first appellate court explicitly held that the land forms part of the reserved green park under the scheme, the construction was unauthorized and detected during inspection on 27.02.1990 and Inspector submitted the report (Ex. D1) to Municipal committee, which issued the notice dated 28.02.1990 to the appellant. Thus, the construction not being sanctioned and being violative of the town planning scheme, it was the Municipal Committee's statutory duty to restrict unauthorised use of property reserved for public park in Town Planning scheme, and invoke provisions of Section 195 against such unauthorised use. In such a situation, the six-month period contemplated under Section 195 cannot be treated as sacrosanct or conclusive so as to legitimise an act which is fundamentally illegal and strikes at the very scheme of planned development. The disputed construction, therefore, cannot be protected by court of law; as it was raised upon the land reserved for park in clear derogation of the notified town-planning scheme.



17. On the contrary, the reliance placed by the appellant on ***Amar Singh v. Municipal Corporation, Hisar, 1986 (1) MCC 365***, is misplaced. The said decision arose out of a case where the construction had been raised on private land and the only infraction alleged was the absence of a sanctioned site plan. There was no issue therein of violation of a sanctioned Town Planning Scheme or of encroachment upon land reserved for a public purpose. The six-month limitation under Section 195 was applied therein in a purely regulatory context, without any element of town-planning reservation or public land. The decision, therefore, does not lay down that construction on land earmarked for public use stand legalised by efflux of time. Conversely, ***Tejinder Singh Bawa v. State of Punjab, 1995 (2) PLR 578***, supports the respondent-Municipal Committee. In that case, restriction on construction near a traffic roundabout and reservation of the land as green space were upheld in public interest, even without acquisition. The principle enunciated therein reinforces that individual rights must yield to statutory planning and public welfare, rendering the appellant's plea under Section 195 untenable. Therefore, the legislative intent behind Section 195's limitation is to provide finality to private constructions that comply with broader land use norms, but it cannot be stretched to shield construction that undermine planned urban development under Section 192.

18. Moreover, the courts are duty-bound to interpret municipal statutes in a manner that advances public interest and preserves the object of planned urban development. If constructions in violation of town planning reservations were permitted to gain legitimacy merely by efflux of time or administrative delay, it would undermine the statutory scheme under Sections 189-195, defeat the purpose of reserving land for public open spaces, and result in irreversible loss of designated green areas essential for urban welfare. Such an approach



would be inconsistent with settled principles of public law and contrary to public policy. The interpretation must therefore ensure that individual constructions cannot prevail over the collective public interest in maintaining reserved parks and open spaces, thereby upholding orderly development as envisaged in the Act.

19. No doubt, the provision of Section 192 of the Punjab Municipal Act, 1911, has been declared unconstitutional by the Hon'ble Supreme Court in ***Yogendra Pal & Others v. Municipality, Bhatinda, 1994 (5) SCC 709***, being violative of Article 14, 19(1)(f) and Article 31 of the Constitution of India to the extent it permitted inclusion of land in schemes without compensation. However, that declaration applies prospectively w.e.f. date of judgment i.e. 15.07.1994. The present impugned notice dated 28.02.1990 and the Town Planning Scheme No. 13 relate to much earlier years (scheme adopted in 1982 and sanctioned in 1987), preceding the said judgment. This Court has kept in mind the prospective application of the judgment in ***Yogendra Pal (Supra)*** while considering the validity and effect of the scheme in the present context.

Effect of Municipal amenities

20. In addition to it, the grant of municipal services such as water or sewerage connections is merely an administrative facilitation intended to ensure basic civic amenities and cannot be construed as an approval, regularisation, or condonation of an otherwise illegal construction or encroachment. Regularisation, if at all permissible, must flow strictly from statutory authority and not by implication, acquiescence, or administrative convenience. In the present case, the provision of such services does not advance the appellant's claim, particularly in the absence of any evidence (receipts of bills/payments) suggesting sanction under the Act; rather, the appellant's own admissions in



cross-examination confirm that no such approval was ever granted. These incidental facilities cannot override the statutory reservation of land under Section 192 of the Punjab Municipal Act, 1911, nor can the six-month period contemplated under Section 195 be treated as sacrosanct so as to legalise encroachments upon public land.

Entitlement to injunction on Public Property

21. Moreover, in *Mohan Lal v. Mohan Singh, 1995 (3) PLR 564*, this Court authoritatively held that injunctions sought against public authorities to protect possession over public land or land meant for public use cannot be granted as a matter of course. It was laid down that, in such cases, the Court must apply a stricter equitable test, requiring satisfaction of the four following ingredients, instead of traditional three ingredients:

(i) *Prima facie case,*

(ii) *Balance of convenience and*

(iii) *Irreparable injury*

(iv) *Public interest (paramount importance where public property is involved).*

22. Tested on the aforesaid parameters, the appellant fails to satisfy most of the requisites. The appellant has no prima facie right over the specific site, being merely a co-sharer in an undivided khasra, as reflected in Ex. PX (Jamabandi), and could not have raised construction over a specific portion without compliance with Section 189 of the Act. The balance of convenience unmistakably tilts in favour of the respondent-Municipal Committee, as the site forms part of a notified town planning scheme under Section 192 and stands reserved for a public park, as evidenced by Ex. D6. Above all, public interest

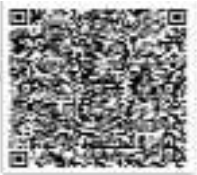


mandates preservation of designated green spaces, essential for planned urban development and environmental balance.

23. Therefore, the learned Trial Court, in granting injunction, failed to apply the settled principles governing injunctions in respect of public property and thereby erred in law. The learned First Appellate Court rightly corrected the error by declining equitable relief, in consonance with the ratio of ***Tejinder Singh Bawa (supra)***, where no injunction was granted for restricted public land. The Courts must exercise heightened restraint while dealing with injunctions affecting public right, as any contrary approach risks perpetuating illegal construction and undermining the statutory scheme envisaged under Sections 189, 192 and 195 of the Act.

24. For the reasons recorded hereinabove, it is held that the limitation prescribed under Section 195 of the Punjab Municipal Act, 1911 does not operate to legalise constructions raised on land reserved for public purposes under a statutory town-planning scheme. The learned First Appellate Court has, therefore, correctly appreciated both the factual matrix and the governing legal principles consistent with statutory intent and public interest., and has rightly reversed the erroneous decree of injunction granted by the learned Trial Court. No perversity, illegality, or misapplication of law is demonstrated so as to warrant interference by this court.

25. Accordingly, the present appeal is devoid of merits and is hereby **dismissed**. The judgment and decree dated 17.04.1997 passed by the learned Additional District Judge, Hoshiarpur, is upheld. The respondent-defendant (Municipal Committee, Hoshiarpur) shall be at liberty to proceed in accordance with law.



26. Since the main appeals stand decided, the miscellaneous application(s), if any, stand also disposed of.

19.02.2026
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No