IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1200-2000 (O&M)
Reserved on :- 04.05.2026
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Municipal Coporation Ludhaina

… Appellant

Versus

Raj Rani (Since Deceased) through Her LRs and Others

... Respondents

-.-

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Harsh Aggarwal, Advocate
for the appellant.

Mr. Tarun Jindal, Advocate
for the respondents No.2 to 4.

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VIRINDER AGGARWAL, J.

1. The appellant-defendant, being profoundly aggrieved by the decree and judgment dated 23.10.1999, rendered by the learned Additional District Judge, Ludhiana, respectfully prefers this Regular Second Appeal (for short 'RSA') under the relevant provisions of the Code of Civil Procedure. By virtue of the impugned judgment, the learned Lower Appellate Court erroneously reversed the well-reasoned findings and decree dated 24.04.1999, pronounced by the learned Civil Judge (Senior Division), Ludhiana.

1.1. The appellant-corporation seeks the restoration of the decree originally granted by the learned Trial Court, contending that the impugned determination is vitiated by manifest perversity, egregious errors of law, and a fundamentally flawed appreciation of the evidentiary record. It is respectfully submitted that the reversal of the court of first instance has occasioned a substantial miscarriage of justice, necessitating the intervention of this Court. Accordingly, the appellant-Corporation prays for the setting aside of the impugned judgment and the reinstatement of the lawful decree passed by the learned Trial Court to ensure the ends of justice are met.

2. The sequence of events antecedent to, and culminating in, the present appeal may be succinctly delineated as under:-

> *The plaintiffs asserted themselves to be the lawful owners of the property in dispute and challenged the demand of ₹9,072/- raised by the defendant–Municipal Corporation towards house tax for the assessment years 1995–96 and 1996–97. The impugned demand, communicated through notice issued under Section 103 of the Punjab Municipal Corporation Act, 1976, was alleged to be illegal, arbitrary, and without jurisdiction, the stated basis for enhancement being the alleged division of the property, which, according to the plaintiffs, does not constitute a valid ground for reassessment under the Act.*
>
> *It was further pleaded that the property had been let out at a monthly rent of ₹1,000/- and, being situated within the municipal limits of Ludhiana, was governed by the provisions of the East Punjab Urban Rent Restriction Act, thereby requiring assessment in accordance therewith. The plaintiffs*

also alleged violation of principles of natural justice on the ground that no effective opportunity of hearing was afforded to them and their objections were not duly considered.

The assessment was further assailed as excessive, arbitrary, and unsupported by any material change in the property, particularly when the house tax for the preceding assessment year 1994–95 had been fixed at merely ₹324/-. On these premises, the plaintiffs sought declaration of the impugned demand as null and void along with consequential relief of permanent injunction.

3. Upon notice of the suit, the defendants entered appearance and contested the suit by filing a detailed written statement, raising both preliminary objections as well as submissions on merits. It was, inter alia, pleaded that the jurisdiction of the Civil Court stood expressly barred under Section 149 of the Punjab Municipal Corporation Act, 1976, and further that the suit was not maintainable for want of statutory notice under Section 396 of the Act prior to its institution.

3.1. On merits, the defendants averred that during the assessment year 1995–96, the property in question was reassessed owing to its division, and consequently, notice under Section 103 of the Act was duly served upon the plaintiffs, which was admittedly received by plaintiff Raj Rani on 16.02.1996 in the office of the defendant–Corporation. It was further pleaded that the plaintiffs were duly called upon to appear before the Assessing Authority on 29.02.1996, and after affording an opportunity of hearing and considering their objections, the Assessing Authority validly passed the assessment order dated 29.02.1996, whereby the annual rental value of the property was fixed at ₹33,600/-.

3.2. The defendants further asserted that the property was being put to commercial use and comprised a double-storeyed structure, and therefore, the provisions of the East Punjab Urban Rent Restriction Act were wholly inapplicable to the facts of the present case. All other averments made in the plaint were specifically denied, and dismissal of the suit was accordingly prayed for.

4. The plaintiffs thereafter filed a replication, wherein the assertions and preliminary objections raised in the written statement were specifically denied, while the averments contained in the plaint were reiterated and reaffirmed in toto. Upon a comprehensive consideration of the pleadings, documentary material, and rival submissions advanced by the parties, the learned Trial Court deemed it appropriate to frame the following issues for adjudication so as to effectively and conclusively determine the controversies arising between the parties:-

1. *Whether the plaintiff is entitled to the injunction as prayed for? OPP.*
2. *Whether no notice U/s 396 of the Punjab Municipal Corporation Act was served on the defendant before filing the present suit? OPD.*
3. *Whether the jurisdiction of the court 3. is barred U/s 149 of the Punjab Municipal Corporation Act? OPD.*
4. *Relief.*

5. Both parties were afforded adequate and effective opportunity to adduce oral as well as documentary evidence in support of their respective pleadings. Upon conclusion of the trial and after hearing

learned counsel appearing on behalf of the parties, the learned Trial Court proceeded to dismiss the suit with costs, holding that the plaintiffs had failed to establish any legal infirmity in the impugned demand of house tax raised by the defendant–Corporation in respect of property No. B-XV-552, Gill Road, Ludhiana, for the assessment years 1995–96 and 1996–97.

6. Aggrieved by the decree and judgment passed by the learned Trial Court, the plaintiffs preferred an appeal before the learned First Appellate Court. The learned First Appellate Court, upon reappraisal of the pleadings, evidence, and material available on record, accepted the appeal, set aside the decree and judgment of the learned Trial Court, and restrained the defendant–Corporation from recovering the amount of ₹9,072/- towards house tax for the assessment years 1995–96 and 1996–97 in respect of property No.552, Gill Road, Ludhiana. However, liberty was reserved in favour of the Commissioner, Municipal Corporation, Ludhiana, or any other competent authority duly authorized in that behalf, to undertake a fresh assessment strictly in accordance with Section 103 of the Punjab Municipal Corporation Act, 1976.

6.1. Dissatisfied with the findings and conclusions recorded by the learned First Appellate Court, the appellants instituted the present appeal. Upon admission vide order dated **06.05.2005**, notice of motion was issued, pursuant whereto respondents No.2 to 4 entered appearance through learned counsel and contested the appeal.

7. I have heard learned counsel for the parties at considerable length and have given my thoughtful and anxious consideration to their respective submissions. I have also meticulously examined the pleadings, the oral and documentary evidence adduced on record, as well as the

findings and conclusions concurrently recorded by the learned Courts below in the light of the statutory provisions and settled principles governing the controversy involved in the present appeal.

8. 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 the Punjab Courts Act, 1918 and not under Section 100 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.

9. Learned counsel appearing on behalf of the appellant–Corporation contended that the learned First Appellate Court has erroneously reversed the well-reasoned and legally sustainable findings recorded by the learned Trial Court on mere surmises and conjectures. It was argued that the learned First Appellate Court has misinterpreted the provisions of Section 103 of the Punjab Municipal Corporation Act, 1976 and has wrongly concluded that the Commissioner was not competent to undertake reassessment. Learned counsel further submitted that the learned First Appellate Court gravely erred in construing the letter “D” mentioned in the notice as signifying “division” of the property, whereas, in fact, the same was a reference to clause (d) of Section 103 of the Punjab

Municipal Corporation Act, 1976, which expressly empowers the Municipal Commissioner to increase or decrease the rateable value and consequential assessment for valid and sufficient reasons.

9.1. It was further contended that the learned First Appellate Court failed to properly appreciate the statutory bar contained under Section 149 of the Punjab Municipal Corporation Act, 1976 while holding that the Civil Court possessed jurisdiction to entertain and adjudicate upon the present suit. Learned counsel submitted that adequate opportunity of hearing had been afforded to the respondent–plaintiff and that the principles of natural justice were scrupulously adhered to before passing the assessment order. The objections raised by the respondent–plaintiff were duly considered and adjudicated upon by the competent authority. It was also argued that the statute itself provides an efficacious alternative remedy of appeal, which the respondent–plaintiff deliberately failed to avail. Consequently, the learned Trial Court had rightly concluded that the jurisdiction of the Civil Court stood barred and that no violation either of the provisions of the Punjab Municipal Corporation Act, 1976 or of the principles of natural justice had occurred while passing the impugned assessment order.

10. Per contra, learned counsel for the respondent contended that the judgment rendered by the learned First Appellate Court suffers from no illegality or infirmity warranting interference by this Court. It was submitted that the learned First Appellate Court has rightly held that reassessment of the annual value of the property was required to be undertaken in accordance with the procedure prescribed under the Rent

Act for determination of standard rent, which procedure had admittedly not been followed by the Commissioner while reassessing the property in question. Learned counsel argued that the impugned reassessment order was thus contrary to the mandatory statutory procedure governing determination of annual value and, therefore, the learned First Appellate Court had rightly concluded that the Civil Court possessed jurisdiction to entertain and decide the present suit.

11. The learned First Appellate Court allowed the appeal by recording a finding that "*division of property*" does not constitute a ground contemplated under Section 103 of the Punjab Municipal Corporation Act, 1976 for amendment of the assessment list, and that the learned Trial Court had failed to appreciate the said legal position. The findings recorded by the learned Trial Court on Issue No.3 were accordingly reversed by placing reliance upon the judgment of this Court in ***Municipal Commissioner, Amritsar vs. Bala Mal Ishar Dass, 1982 SLJ (P&H) 134***, wherein it was held as under:-

> "The law is, therefore, well settled that the legality on merits Municipal Committee of the Order of the Municipal Committee would not be open to challenge in a Civil suit but if the order has been passed by a person of authority not competent do so as has been passed in violation of the provisions of the statute or of principles of natural justice then the Civil Court would certainly have the jurisdiction."

11.1. The learned First Appellate Court further placed reliance upon the law laid down by this Court in ***Municipal Committee Ladwa District Karnal vs. Daryat Lal and Others, 1982 PLR 22***, wherein it was authoritatively held that where a tax or levy has been imposed in contravention of the mandatory procedure prescribed under law, the Civil Court would possess the jurisdiction to examine the legality and validity of such imposition and to declare the same illegal and unenforceable.

11.2. Conversely, the learned Trial Court, while returning findings on the issue pertaining to the bar of jurisdiction of the Civil Court, placed reliance upon the provisions of Section 149 of the Punjab Municipal Corporation Act, 1976, which read as under:-

> Taxation not to be questioned except under this Act :
>
> (1) No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Act.
>
> (2) No refund of any tax shall be climbable by any person otherwise than in accordance with the provisions of this Act and the rules thereunder.

12. There can be no quarrel with the proposition that the jurisdiction of the Civil Court stands impliedly barred in view of the provisions contained in Section 149 of the Punjab Municipal Corporation Act, 1976. However, it is equally well-settled that where the action of the Municipal Corporation suffers from a jurisdictional error, is taken in excess of statutory authority, or is in violation of the mandatory procedure prescribed by law, the jurisdiction of the Civil Court is not completely ousted and the suit would remain maintainable. In this regard, the Hon'ble Supreme Court in ***Shiv Kumar Chadha vs. Municipal Corporation of Delhi, 1993(3) SCC 161***, authoritatively observed as under:-

> In some special cases where "jurisdictional error" on the part of the Corporation is established, a suit shall be maintainable. According to us.

(1) The Court should not ordinarily entertain a suit in connection with the proceedings initiated for demolition, by the Commissioner, in terms of section 343 (1) of the Corporation Act. The Court should direct the persons aggrieved to pursue the remedy before the Appellate Tribunal and then before the Administrator in accordance with the provisions of the said Act.

(2) The Court should entertain a suit questioning the validity of an order passed under section 343 of the Act. only if the Court is of Prima facie opinion that the order is nullity in the eyes of law because of any "jurisdictional error" in exercise of the power by the commissioner or that the order is outside the Act.

13. This Court has, on numerous occasions, consistently held that where a statutory authority acts in excess of jurisdiction or commits a jurisdictional error, the jurisdiction of the Civil Court to examine the legality of such action is not excluded. A Three-Judge Bench of the Hon’ble Supreme Court, while interpreting the provisions of the Punjab Municipal Act, 1911 concerning the power of the Municipal Committee to assess the annual value of buildings, authoritatively held in ***Dewan Daulat Raj Kapoor vs. New Delhi Municipal Committee, 1979 INSC 272*** that the assessing authority is under a legal obligation to determine the standard rent in accordance with the provisions of the applicable Rent Act.

13.1. In the present case, the assessment order was specifically assailed by the plaintiff on the ground that the reassessment had not been undertaken in conformity with the provisions of the East Punjab Urban Rent Restriction Act. However, the learned Trial Court brushed aside the said contention merely on the premise that the case pertained not to an initial assessment under Section 101 of the Act, but to an amendment of the assessment list. The said reasoning, in the considered opinion of this Court, is contrary to the settled legal position governing determination of annual value.

13.2. The Hon'ble Supreme Court in ***Dewan Daulat Raj Kapoor vs. New Delhi Municipal Committee, 1979 INSC 272*** categorically held that the annual value of a building governed by the Delhi Rent Control Act, 1958, cannot exceed the standard rent determinable under the said enactment. The Apex Court further observed as under:-

> Where a building is governed by the provision of Rent Court Legislation the landlord cannot reasonably be expected to receive anything more than the standard rent from a hypothetical tenant and the annual value of the building cannot therefore exceed the standard.
>
> No matter the landlord was charging higher rent. Even in case of a building in respect of which no standard rent has been fixed within the prescribed period of limitation and thus the tenant is precluded from making an application for fixation of standard rent with the result that landlord is lawfully entitled to continue to receive the contractual rent, the annual value must be limited to the measure of standard rent determinable under the Rent Act and cannot be determined on the basis of the higher rent actually received by the landlord from the tenant Even if the standard rent has not been fixed by the Controller, the landlord cannot reasonably expect to receive from a hypothetical tenant anything more than the standard rent determinable under the Act and this would be so equally whether the building has been let out to a tenant who has lost his right to apply for fixation of the standard rent or the building is self-occuied by the owner. The assessing authority would, in either case have

to arrive at its own figure of the standard rent by applying principles laid down in the Delhi Rent Control Act, 1958 for determination of standard rent and determine the annual value of the building on the basis of such figure of standard rent.

14. In the instant matter, the respondent-plaintiff has assailed the assessment order on the ground that the valuation of the suit property was not determined in accordance with the statutory framework of the East Punjab Rent Restriction Act, 1949 (for short 'the Act of 1949'). Conversely, the appellant-defendant contends that the provisions of the said Act are inapplicable to the present controversy. It is, however, an admitted position that the property in question is situated within the urban limits of Ludhiana. Given that the Act of 1949, governs all urban areas within the State of Punjab, its application to the present case is absolute and mandatory.

14.1. The appellant-defendant has failed to lead any evidence to demonstrate that the assessment value determined by the Commissioner is commensurate with the standard rent exigible under Section 4 the Act of 1949. Consequently, the assessment stands as a clear violation of these mandatory statutory provisions. While it is acknowledged that the Commissioner is vested with the power under Section 103 to modify the rateable value or the assessment exigible thereon, such discretionary power must be exercised in strict consonance with the rule of law. In the present instance, the Commissioner's failure to adhere to the prescribed mandatory procedure renders the assessment legally unsustainable. Resultantly, finding no merit in the appeal, the same is hereby **dismissed**.

15. Upon the final adjudication of the principal matter on its merits, all ancillary, interlocutory, or pending applications currently subsisting on the record shall, by necessary implication, stand disposed of.

15.1. In view of the definitive conclusions reached herein, no separate or independent orders are required in respect thereof, as the same have been rendered infructuous.

(VIRINDER AGGARWAL)
JUDGE

12.05.2026
Gaurav Sorot

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