



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

213

**RSA-1530-1998 (O&M)****Reserved on: 28.04.2026****Pronounced on: 12.05.2026****Uploaded on: 12.05.2026**

Ram Chander

...Appellant

Versus

Municipal Corporation, NIT Faridabad

...Respondent

**CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Mr. Ashish Kapoor, Advocate, with  
Mr. M. S. Rana, Advocate, for the appellant.

Mr. Baldev Raj Mahajan, Sr. Advocate, with  
Mr. Prateek Mahajan, Advocate, &  
Ms. Nikita Goel, Advocate,  
Mr. Mohit Kumar Sharma, Advocate,  
for the respondent.

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**AMARINDER SINGH GREWAL, J. (Oral)**

1. The appellant-Ram Chander son of Panna Lal has filed the present Regular Second Appeal against the judgment and decree dated 29.05.1998 passed by the learned Additional District Judge, Faridabad, whereby the judgment and decree dated 16.12.1996 passed by the learned Civil Judge (Senior Division), Faridabad, decreeing the suit of the appellant, have been reversed.

2. The brief facts of the case are that plaintiff-Ram Chander (appellant herein) filed a suit for permanent injunction against the Faridabad Complex Administration, Faridabad, contending that he was owner in possession of a building consisting of six shops, one hall, a hand-pump room, tank, khoras, tin shed and open space situated at Tirkha Colony, Sihi Gate Road, Ballabhgarh, District Faridabad. It was pleaded that in the year 1979,

the plaintiff constructed a boundary wall, common hall and tin shed, besides



raising construction of six shops over the suit property. Some portion of the suit land was purchased by the appellant/plaintiff from Kanu Ga Nursing Murti for a consideration of Rs.25,000/- vide registered sale deed dated 09.10.1985. Thereafter, in the year 1989, he constructed a second storey over the shop situated at the extreme northern side. It was further pleaded that in the year 1987, the plaintiff submitted a site plan for construction of six shops, however, the same was not sanctioned on the ground that the land over which the construction was sought to be raised was stated to be outside the lal dora of village Ballabgarh and, therefore, the Faridabad Complex Administration was not competent to grant permission in respect thereof. It was further averred that the construction of the ground floor was completed in the year 1987 and the first floor was constructed in the year 1989. It was also averred in the plaint that the defendant issued a notice dated 02.03.1993 in the name of plaintiff's relative Kirpa Ram directing demolition of the construction within six hours and also threatened to demolish the suit property on expiry of the said period. Consequently, the plaintiff filed the suit seeking a decree for permanent injunction restraining the defendant from demolishing the suit property.

3. Notice of the suit was issued to the defendant-respondent, who appeared and filed its written statement contending therein that the plaintiff was neither owner nor in possession of the suit property and that the description and boundaries of the suit land had been falsely and incorrectly mentioned sale deed of 09.10.1985 of Rs. 25,000/- has also been denied. It was also denied that the plaintiff had raised the boundary wall and tin shed in the year 1979. Rather, according to the defendant, one Kirpa Ram had raised unauthorized construction comprising six rooms, as was reported by the

Building Inspector of the defendant-Faridabad Complex Administration on



18.02.1993. Consequently, notices under Sections 208 and 209 of the Haryana Municipal Act, 1973 (hereinafter referred to as “the HMA”) were issued, but the same went unheeded. Thereafter, a notice under Section 235 of the HMA was also served upon the said Kirpa Ram, however, he continued with the unauthorized construction. It was further pleaded that the shops in question had been constructed in an unauthorized colony in violation of the provisions of the Faridabad Complex Administration Act and the HMA. The defendant also denied that the plaintiff had raised construction over the second storey of the shop in dispute in the year 1989. It was also denied that the defendant ever refused to acknowledge said plan submitted by the plaintiff in the year 1987. On these premises, dismissal of the suit was prayed for.

4. Replication to the written statement was also filed controverting the plea taken in the written statement. From the pleadings of the parties, as many as 8 issues were framed which are as under:

1. Whether the plaintiff is entitled to the injunction prayed for?  
OPP.
2. Whether the plaintiff has no locus-standi to file the present suit? OPD.
3. Whether the plaintiff has no cause of action to file the present suit? OPD.
4. Whether the suit of the plaintiff is not maintainable in the present form? OPD.
5. Whether the civil court has no jurisdiction to try the present suit? OPD.
6. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD.



7. Whether the defendant is entitled to special costs under Section 35-A CPC? OPD.

8. Relief.

5. Thereafter, the parties led their respective evidence and, upon appreciation thereof, the learned trial Court decreed the suit of the plaintiff vide judgment and decree dated 16.12.1996 and permanently restrained the defendant from demolishing the suit property.

6. Aggrieved against the judgment and decree dated 16.12.1996 passed by the learned Civil Judge (Senior Division), Faridabad, the respondent filed the appeal before learned Additional District Judge, Faridabad, who set aside the judgment of trial Court vide judgment and decree dated 29.05.1998. Aggrieved by the judgment of learned Additional District Judge, Faridabad, the present RSA has been file by the appellant.

7. At the very outset, learned counsel for the appellant had submitted that the judgment and decree dated 29.05.1998 passed by the learned Additional District Judge, Faridabad, reversing the judgment and decree dated 16.12.1996 passed by the learned trial Court, are based upon conjectures and surmises, as the learned first Appellate Court failed to appreciate the evidence led by the appellant in its correct perspective manner. It was contended by learned counsel for the appellant that the learned trial Court had specifically observed in its judgment that no notice had ever been served upon the appellant, who was the owner of the suit property in dispute, however, the said findings were never dealt with by the learned first Appellate Court. It was further submitted that the notices issued under Sections 208 and 209 of the Haryana Municipal Act, 1973, were without jurisdiction and had been issued with mala fide intention. It was further contended by learned counsel for the appellant that it was the specific case of the respondent that



one Bhim Singh, Building Inspector, had visited the spot and found that Kirpa Ram was raising unauthorized construction of six shops, as reflected in report Ex.D-1. However, the said Bhim Singh, Building Inspector, was never examined by the defendant before the learned trial Court. It was further contended that the respondent had examined DW-1 Prem Raj, Building Inspector, who merely proved report dated 18.02.1993 Ex.D-1, despite the fact that he himself had never visited the spot. Therefore, it was argued that the learned first Appellate Court ought not to have relied upon report Ex.D-1, which had been proved through DW-1 Prem Raj, Building Inspector, FCA. It was thus contended that non-examination of Bhim Singh, Building Inspector, was fatal to the case of the respondent and, therefore, the learned first Appellate Court ought not to have reversed the findings recorded by the learned trial Court. It was further contended that, in fact, the appellant had raised the boundary wall in the year 1979 and thereafter constructed six shops over the suit land. Subsequently, in the year 1989, he constructed a second storey over the shops situated at the extreme northern side. In support of the said contention, the appellant examined PW-4 Raghbir Singh, Mason, who categorically deposed that in the year 1987, he had constructed six shops and, in the year 1989, he had constructed two rooms and a bathroom over the shops in dispute and that no construction was raised thereafter. It was further contended that the testimony of PW-4 Raghbir Singh remained unshaken during cross-examination. Lastly, learned counsel submitted that no notice under Sections 208 and 209 of the HMA, 1973, was ever served upon the appellant, who was the owner of the shops in question. It was argued that the un rebutted evidence on record clearly established that the appellant had raised the construction prior to the year 1993 and not during the year 1993, as alleged by the respondent. Therefore, according to learned counsel, the



learned first Appellate Court had wrongly appreciated the evidence and erroneously reversed the well-reasoned judgment and decree passed by the learned trial Court. Accordingly, prayer was made for acceptance of the appeal and for setting aside the judgment and decree passed by the learned first Appellate Court.

8. Per contra, learned counsel for the respondent contended that the learned first Appellate Court, after properly appreciating the evidence available on record, had rightly reversed the judgment and decree passed by the learned trial Court. It was further contended that since due notices had been issued to Kirpa Ram, who was present at the spot at the time of raising unauthorized construction, the appellant cannot now be permitted to raise a plea that no notice had been served upon him. Learned counsel further submitted that report dated 18.02.1993 Ex.D-1, prepared by Bhim Singh, Building Inspector, clearly established that Kirpa Ram was found raising unauthorized construction at the spot and, therefore, the respondent-authorities were fully justified in issuing notices under Sections 208 and 209 of the HMA, 1973 to Kirpa Ram without obtaining any separate sanction. Accordingly, prayer was made for dismissal of the appeal being devoid of merit.

9. Upon hearing learned counsel for the parties, this Court is of the considered view that, firstly, it was incumbent upon the appellant to produce cogent title documents with regard to the shops in question. However, no title deed pertaining to the shops in dispute was ever produced or exhibited before the learned trial Court. Further, the evidence on record reveals that Bhim Singh, Building Inspector, had visited the spot and found that one Kirpa Ram was raising unauthorized construction of six shops at the site. Consequently,

he prepared inspection report dated 18.02.1993 Ex.D-1. Pursuant thereto,



notices under Sections 208 and 209 of the Haryana Municipal Act were issued to Kirpa Ram, who was present at the spot on the date of inspection. Section 208 of the Haryana Municipal Act states that where a building had begin erected or re-erected without sanction, the committee may by notice to be delivered to the owner within six months from the completion of the building, requires the building to be altered or demolished it may deem necessary within the period specified in such notice. Further Section 209 of HMA says that where a building begins as described in Section 208 but not completed, the committee may by notice, to be delivered to the owner within six months from the commencement of the building, require the building operations to be discontinued from the date of the service of such notice.

10. Coming to the facts of the present case, though the appellant had averred before the learned lower Court that he had submitted the site plan at the time of raising construction of six shops in the year 1987, yet in support of the said contention, neither any application nor the alleged site plan was produced before the learned trial Court. Mere assertion on the part of the appellant that he had submitted the site plan of the six shops before the respondent-authority and that the same was refused on the ground that the land in question fell outside the Lal Dora of village Ballabgarh, cannot be accepted by this Court in the absence of any cogent evidence. Further, though much hue and cry was raised before this Court regarding the non-examination of Bhim Singh, Building Inspector, who had prepared the report dated 18.02.1993, this Court is of the considered view that non-examination of the said official was not fatal to the case of the respondent-authority. The said report was duly proved on record by DW-1 Prem Raj, another Building Inspector of the respondent-authority, and when the report was exhibited as Ex.D-1, no finger was raised at the time of its exhibition. Moreover, Bhim



Singh, Building Inspector, had no manner of enmity or ill-will against Kirpa Ram so as to falsely prepare a report alleging that unauthorized construction was being raised at the spot. Further, as regards the contention raised by learned counsel for the appellant that the shops had been constructed prior to the year 1993 and not in the year 1993, this Court is of the considered view that, had the appellant actually constructed the shops prior thereto, he could very well have stepped into the witness box before the learned trial Court to substantiate his stand. However, quite strangely, the appellant himself did not appear before the learned trial Court and instead chose to examine his attorney as a witness. It has also nowhere been brought to the notice of this Court that during the pendency of the suit the appellant was suffering from any illness or disability which prevented him from appearing before the learned trial Court to depose in support of his case. Further, though the appellant before the learned trial Court had attempted to establish that the construction had been raised prior to the year 1993 and, in support thereof, had produced electricity bills Ex.P-5 to Ex.P-7 as well as bills pertaining to building material Ex.P-10 to Ex.P-29, yet the said electricity bills and building material bills do not in any manner prove that the construction existed prior to the inspection conducted by Building Inspector Bhim Singh in the year 1993. Thus, none of the aforesaid documents establishes that the appellant had raised the construction in the year 1989. Thus, from the aforesaid facts and circumstances, this Court is of the considered view that it was incumbent upon the appellant to establish before the learned Courts below that he was the owner of the shops in question, however, no title deed whatsoever was produced on record in support of such claim. Moreover, the report Ex.D-1 prepared by Bhim Singh, Building Inspector, cannot be ignored lightly, particularly when the said official, in discharge of his official duties, had



visited the spot and found that Kirpa Ram was present there and was raising unauthorized construction. In such circumstances, the appellant cannot be permitted to raise the plea that no notice was personally served upon him, especially when he has miserably failed to establish himself as the owner of the shops in question by not producing any title deed in support thereof. Consequently, the respondent-authority was fully justified and well within its jurisdiction to issue notices under Sections 208 and 209 of the HMA to Kirpa Ram, who was present at the site on the date when the construction activity was being carried out.

11. In view of the aforesaid discussion, no illegality or perversity is found in the impugned order dated 29.05.1998 passed by learned Additional District Judge, Faridabad, so as to warrant interference by this Court. Accordingly, the present revision petition stands dismissed.

12. Pending applications, if any, shall stand disposed of.

May 12, 2026  
*anil*

(AMARINDER SINGH GREWAL)  
JUDGE

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|---------------------------|---|----------|
| Whether speaking/reasoned | : | Yes / No |
| Whether reportable        | : | Yes / No |