

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

(204)

RSA-159 of 1998(O&M)
Reserved on: 11.03.2026
Pronounced on:13.03.2026
Uploaded on: 13.03.2026

Improvement Trust, Ludhiana

... Appellant

Versus

Pritpal Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mrs. Kavita Arora, Advocate
for the appellant.

Mr. Ravinder Singh Randhawa, Senior Advocate with
Mrs. K.S.Riar, Advocate
for the respondent.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal has been preferred by the appellant-Improvement Trust against the judgment and decree passed by the learned First Appellate Court whereby the appeal filed by the appellant/defendant was dismissed and the judgment and decree passed by the learned Civil Judge (Junior Division), decreeing the suit of the plaintiff/respondent for permanent injunction, was affirmed.

BACKGROUND FACTS

2. The respondent-plaintiff instituted a civil suit seeking a decree of permanent injunction restraining the appellant-defendant, i.e. the Improvement Trust, from interfering in her peaceful possession over the residential house in question and from taking any coercive action pursuant to the notice dated 07.02.1990. It was pleaded that the plaintiff had purchased the plot in dispute from Sampuran Singh vide registered sale deed dated 20.05.1988 (Ex.P1) and thereafter constructed a residential house after obtaining sanction of the

building plan from the defendant–Trust on 25.08.1988 upon depositing the requisite fee (Receipt Ex.PW3/23). Certain minor deviations made during construction were subsequently compounded by the Trust on payment of a fine of ₹800/- vide order dated 27.02.1989. According to the defendant-Trust, the plaintiff had installed shutters in the premises and thereby converted the user of the property from residential to commercial without obtaining the requisite permission. On this premise, the Trust issued notice dated 07.02.1990 directing removal of the alleged unauthorized construction and restoration of the property to residential use. Aggrieved by the said notice, the plaintiff instituted the present suit seeking to restrain the defendant from interfering with her possession and construction on the suit property and also for declaring the impugned notice as illegal, null and void. It was pleaded that the construction remained incidental to residential use and no commercial activity was being carried out, and that the action of the Trust was arbitrary, mala fide and taken without affording any reasonable opportunity of hearing to the plaintiff.

3. The suit was contested by the appellant/defendant-Improvement Trust by filing a written statement wherein the claim of the plaintiff was denied. It was pleaded that during inspection by the officials of the Improvement Trust, it was found that the plaintiff had installed a shutter in the front portion of the house and had converted the premises into commercial use in violation of the sanctioned building plan and the provisions of the governing statute. It was asserted that the impugned notice dated 07.02.1990 had been issued strictly in accordance with law and the plaintiff was liable to remove the unauthorized construction and restore the property to its original sanctioned use. Upon a meticulous examination of the pleadings and the rival contentions of the parties, the learned Trial Court framed the following issues for determination:

- i. *Whether the notice served by the defendant is illegal, unlawful, arbitrary and malafide against the provisions of the Act? OPP*
- ii. *Whether the suit is not maintainable as alleged in the preliminary objection no.1 of the written statement? OPP*
- iii. *Relief.*

4. Both the parties were afforded adequate opportunity to adduce evidence in support of their respective claims and defences. Upon appreciation of the oral as well as documentary evidence brought on record and after hearing learned counsel for the parties, the learned Trial Court decided the issues in favour of the plaintiff and decreed the suit vide judgment dated 05.04.1995. Consequently, a permanent injunction was granted, restraining the defendant from demolishing the structures or dispossessing the plaintiff.

5. Aggrieved by the judgment and decree passed by the learned Trial Court, the appellant/defendant preferred an appeal before the learned First Appellate Court. The learned First Appellate Court, after reappreciating the entire evidence and material on record, vide judgment and decree dated 23.07.1997, dismissed the appeal, affirming the trial court's findings. It observed that the plaintiff's constructions were minor and ancillary to residential purposes, that the demolition notice lacked specificity and procedural compliance, and that no prejudice was caused to the urban development scheme. The court further held that the defendant failed to establish malafide or jurisdictional error on the plaintiff's part sufficient to override her possessory rights. Dissatisfied with the concurrent findings recorded by both the Courts below, the appellant/defendant has approached this Court by way of the present Regular Second Appeal.

CONTENTIONS

6. Learned counsel for the appellant-Improvement Trust, assailing the impugned judgments and decrees, contended that both the Courts below have erred in law as well as on facts in decreeing the suit of the plaintiff. It was submitted that the Courts below failed to properly appreciate the material placed on record by the defendant showing that the plaintiff had installed a shutter at the front portion of the house and had thereby altered the user of the premises in violation of the sanctioned plan and the provisions governing the property falling within the jurisdiction of the Improvement Trust. It was argued that the impugned notice was issued in discharge of statutory duties of the Improvement Trust and the Courts below ought not to have interfered with such action.

7. Learned counsel for the appellant further submitted that during the pendency of the present appeal, in compliance of the order dated **10.02.2026** passed by this Court, instructions were obtained from the concerned department. It has been submitted that a communication has been received from the department along with photographs, wherein it has been stated that the officials of the Improvement Trust visited the house of the plaintiff/respondent on **10.03.2026** and found that the shutter which had earlier been installed at the front portion of the house had already been removed. It was further reported that a window has now been placed at the said location and the building presently forms part of the residential house enclosed by boundary walls. The photographs and report in this regard have been submitted to the department accordingly.

8. Per contra, learned counsel for the respondent/plaintiff supported the judgments and decrees passed by the Courts below and submitted that the findings recorded therein are based upon proper appreciation of the evidence on

record and do not suffer from any illegality or perversity. It was further submitted that even otherwise the dispute which had arisen on account of the alleged affixation of the shutter no longer survives in view of the fact that the shutter has already been removed and the position has been restored to its original residential form.

OBSERVATIONS AND FINDINGS

9. I have heard learned counsel for the parties and have carefully perused the record with their able assistance.

10. At the outset, it may be noticed that the controversy in the present case had arisen on account of the allegation made by the appellant-Improvement Trust that the plaintiff had installed a shutter at the front portion of his residential house and had thereby converted the property into commercial use in violation of the sanctioned plan.

11. In this regard, it needs to be observed that the mere affixation of a shutter on the outer side of a residential house does not necessarily lead to the conclusion that the property has been converted from residential to commercial use. It is a matter of common experience that in both urban as well as rural areas, residents often install shutters in a portion of their houses for various purposes such as storing goods, parking vehicles, or using the space as a garage or store room. Such affixation, by itself, cannot automatically imply that the premises is being used for commercial purposes without obtaining the requisite sanction from the competent authority or in contravention of the sanctioned plan.

12. In the present case, apart from the allegation regarding affixation of a shutter, the appellant-Improvement Trust has not been able to place on record any cogent material to establish that the premises was actually being used for

commercial purposes in violation of the applicable statutory provisions. Furthermore, during the course of hearing of the present appeal, learned counsel for the plaintiff/respondent made a statement before this Court on **10.02.2026** that the shutter, which was the epicentre of the dispute, had already been removed from the house and that a wall had been constructed at the said place with affixation of a window and doors, thereby restoring the structure as part of the residential building. In effect, the very basis of the notice in question, on account of which the present litigation had arisen and the appeal was pending before this Court, no longer survives. Therefore, this Court, vide order dated **10.02.2026**, directed learned counsel for the appellant to verify the said submission from the concerned Improvement Trust. In compliance with the aforesaid order, learned counsel for the appellant has placed on record a communication received from the appellant/Improvement Trust along with photographs, indicating that the officials of the Improvement Trust visited the premises of the plaintiff/respondent on **10.03.2026** and found that the shutter had indeed been removed by the plaintiff and that a window had been installed at the said location as part of the residential structure enclosed within boundary walls.

13. In view of the aforesaid subsequent development, the very basis of the impugned notice dated **07.02.1990** issued by the appellant-Improvement Trust no longer survives and the grievance raised by the appellant stands substantially redressed.

14. It is well settled that the jurisdiction of this Court under Section 100 of the Code of Civil Procedure is confined only to cases involving a substantial question of law. The findings recorded by the Courts below in the present case are concurrent findings of fact based upon appreciation of evidence and do not

suffer from any illegality, perversity or misreading of evidence warranting interference by this Court.

15. Consequently, finding no merit in the present appeal, the same is dismissed. However, it is clarified that if any violation of the sanctioned plan or the applicable statutory provisions is noticed in future, it shall always remain open to the appellant-Improvement Trust to proceed in accordance with law.

16. Since the main appeals stands decided, pending application(s), if any, also stand disposed of.

13.03.2026

Sourav Pathania

(VIRINDER AGGARWAL)
JUDGE

- (i) *Whether speaking/reasoned* : Yes/No
- (ii) *Whether reportable* : Yes/No