
(2014) 05 P&H CK 0332
In the Punjab And Haryana At Chandigarh
Case No : RSA No. 2663 of 2011

M/s. Ajit Singh Om Parkash

APPELLANT

Vs

Market Committee, Nawanshahar

RESPONDENT

Date of Decision : 19-05-2014

Acts Referred:

Citation : (2014) 05 P&H CK 0332

Hon'ble Judges : Paramjit Singh Patwalia, J

Bench : Single Bench

Advocate : R.L. Batta, Senior Advocate and Mr. J.S. Saggi, Advocate for the Appellant; Akshay Kumar Goel, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Paramjeet Singh, J.—This regular second appeal preferred by plaintiff is directed against the judgment and decree dated 25.09.2004 passed by learned Civil Judge (Sr. Divn.), Nawanshahar whereby suit for declaration with consequential relief of permanent injunction filed by appellant-plaintiff has been dismissed and against the judgment and decree dated 15.03.2011 passed by learned Additional District Judge, Saheed Bhagat Singh Nagar whereby appeal preferred by the appellant-plaintiff has also been dismissed.

2. For convenience sake, reference to parties is being made as per their status in civil suit.

3. It is the case of the plaintiff that demand notice dated 28.02.1990 served upon the plaintiff on the basis of best judgment of the defendant against the plaintiff and assessment order/resolution dated 28.02.1990 are illegal, mala fide, arbitrary and punitive and are liable to be set aside with consequential relief of permanent injunction restraining the defendant from making alleged recovery under the alleged demand notice dated 28.02.1990. However, on the other hand, the defendant has denied these averments and pleaded that during super-session, the powers of chairman have been exercised by the administrator and

that best judgment assessment is legal, valid and speaking and has been made after following the principles of natural justice and procedure given in the law.

4. I have heard learned counsel for the parties and perused the record.

5. During the course of arguments, learned counsel for the appellant submits that he does not press the instant appeal provided a liberty is granted to file an appeal against the impugned assessment order dated 28.02.1990 before the appellate authority. Learned counsel further submits that the plaintiff has been bonafidely pursuing in the Civil Court though a wrong forum, since 14.06.1990 and if such an appeal is filed before the appropriate forum, the same may be decided on merits without going into technicality of limitation.

6. On the other hand, learned counsel for the respondent fairly submits that if the appeal is filed within a stipulated period, the Market Committee will not raise any objection with regard to limitation and the appeal should be decided on merits in accordance with law.

7. I have considered the contentions of learned counsel for the parties.

8. Without going into the merits of the case, the appeal is disposed of with liberty to the plaintiff to file appeal before the appellate authority against the assessment order dated 28.02.1990. If such an appeal is filed within one month from today, the same shall be decided on merits and the defendant will not raise any objection with regard to limitation. However, the parties will be at liberty to raise other objections.

9. Disposed of in the aforementioned terms.