

(2013) 08 P&H CK 0843

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3354 of 2005 (O and M)

Municipal Corporation Ludhiana
and Another

APPELLANT

Vs

Gursharan Singh and Another

RESPONDENT

Date of Decision: Aug. 19, 2013

Acts Referred:

- Punjab Municipal Corporation Act, 1976 - Section 257, 260

Citation: (2014) 1 PLR 69

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Harsh Aggarwal, for the Appellant; B.S. Bhatia, for the Respondent

Final Decision: Disposed Off

Judgement

K. Kannan, J.

The revision is a challenge to the order passed by the District Judge as an appellate authority under the Punjab Municipal Corporation Act of 1976. The notice of prosecution was issued by the Corporation on the ground that the occupier of the building attempted to make constructions without taking the requisite sanction. Against the notice issued and a decision taken for removal, the respondent herein has preferred an appeal and the District Judge has accepted the contention that a change of roof cannot constitute an erection of building to require any permission from the authority. The appeal was allowed and it is against this order that the Municipal Committee has preferred the appeal. There was a reference in the order to some permission as having been obtained. The bare provision of the Act leaves no doubt that any form of repair that attempts to make an alteration or repairs to the building involving any wall or making a change in the roof come within the meaning "to erect to a building" u/s 257 of the Act and sanction would require to be obtained u/s 260 of the Act. In the reply to the notice given on 15.10.2004, the occupier has stated that he has even moved an application before the Municipal

Corporation regarding repairs and he has contended that there has been no violation. I cannot understand as to how this would be a proof of having applied for sanction in the manner contemplated u/s 260 of the Act. The fact that there has been a roof laid without actual sanction is an admitted fact. Attempt by the respondent to explain his position was twofold which are mutually inconsistent: (i) he did not require sanction; and (ii) he had applied for such sanction. I would reject the first contention that he did not require sanction and also find that a mere reference to the fact that he had applied for sanction did not mean that he had done an act contemplated by law. Since no permission was granted within the time stipulated under the Act, he has made an assumption that permission was deemed to have been granted. The petitioner is at liberty to file the details of his request and file a fresh application for sanction to regularize the construction already made. In the context in which the order is passed, there is no scope for any action for demolition. The demolition notice already issued is quashed and it will abide by the final decision which is taken pursuant to this order. The petitioner will have 4 weeks to make the fresh application and in the application, he is also at liberty to point out to details of any earlier application which he had filed and the Municipal Committee shall take an appropriate decision on the basis of the fresh representation with all the details filed as regards the earlier application alleged to have been filed and will take a decision in accordance with law. The consequences of demolition will follow if the respondent does not apply for directions in the manner directed.

2. With these observations, the civil revision is disposed of.