IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2026:PHHC:064843-DB

RSA No. 2489 of 2006 (O&M)
Reserved on : 10.04.2026
Pronounced on : 24.04.2026

Municipal Corporation, Ludhiana .....Appellant

versus

Vijay Kumar and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE RAMESH KUMARI

Present: Mr. Rajiv Joshi, Advocate, for the appellant.

Mr. Abhimanyu Kalsy, Advocate for
Mr. A.K.Kalsy, Advocate, for respondents No.1 to 3.

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RAMESH KUMARI, J.

1. Respondents (plaintiffs of the original suit) had filed a suit for perpetual injunction restraining the defendants-Municipal Corporation, Ludhiana), their employees, agent, assignees and contractors and any other persons from realizing the amount of Rs. 3240/- as House tax for the year 1997-98 against the property Unit No. B-IX/39/2 vide Bill No. 41 delivered on 10.10.1997 as the same was illegal, null and void on the basis of oral and documentary evidence.

2. Civil Suit filed by the respondents-plaintiffs was dismissed by the learned trial Court. The appeal filed by the respondents-plaintiffs before the first Appellate Court was allowed and the suit was decreed.

3. Aggrieved with the impugned judgment and decree passed by the learned First Appellate Court, the present Regular Second Appeal has been filed by the defendants-Municipal Corporation, Ludhiana.

4. The suit was filed by the respondents-plaintiffs alleging that all the three plaintiffs (respondents No.1 to 3 herein) were joint owners of the property i.e. Unit No. B.IX.39/2 up to the year 1992-93. The said property was assessed to house tax for one year for Rs. 421.20 paise. In the year 1991 during Diwali days the said property caught fire along with other properties in the vicinity. The building was repaired to the extent of its damage after the requisite repairs. It was reassessed for the purpose of house tax and Rs.810/- w.e.f. 1993-94 till 1996-97 as house tax was levied. On 08.10.1996, notice Ex.P11 under Section 103 of the Punjab Municipal Corporation Act (for short 'the PMC Act") was served upon the plaintiffs-respondents to revise the house tax for the year 1996-97 mentioning the ground as "addition" and the same was duly replied vide Ex.P12/Ex.D2 and after that the impugned bill Ex.D4 was received by the plaintiffs-respondents. Notice under Section 103 of the Punjab Municipal Corporation Act and the bill and the order passed on the notice for realizing the house tax is illegal, null and void and not binding on the rights of the plaintiffs on the ground that the said notice is vague as no detail of any type has been given; the property is in the same condition as it was in the year 1993-94 and while revising the house tax, the provisions of Punjab Municipal Corporation Act were not taken into consideration and that the plaintiffs-respondents were not afforded an opportunity of being heard. The revision of house tax is an abuse of the power; the issuance of notice as well as revision of house tax is against the principle of natural justice, equity and fair play.

5. The defendants-Municipal Corporation, Ludhiana in their written statement contested the suit by raising preliminary objections that the Civil Court was barred to try the suit under Section 149 of the PMC Act Act; no notice under Section 396 of the PMC Act was served by the plaintiffs-respondents upon the defendants-MC before filing the civil suit and that the plaintiffs-respondents have not come to the Court with clean hands.

6. On merits, the ownership of the plaintiffs-respondents over the suit property bearing Unit No. B.IX.39/2 was admitted and it was also admitted that the property was assessed to house tax. The case of the defendants-MC is that previously the house tax of the property was at lower rate and it was subsequently revised in the year 1996-97 due to the addition in the property. The defendants-MC denied that the property was repaired in the year 1991. The case of the defendants-MC is that the property in question was assessed to house tax from time to time due to addition and alterations and accordingly the house tax was revised by the defendants-MC. Lastly, the property in question was assessed to house tax for the year 1996-97 in due course of law and the defendants-MC denied that revision of the house tax was illegal, null and void and it was further added that the annual rental value of the property had been fixed at Rs. 36,000/- per year and on the basis of said assessment, legal and valid demand of house tax had been made.

7. Learned trial Court framed the following issues for determination:-

1. *Whether the defendant is not entitled to recover the impugned amount? OPP*
2. *If issue No.1 is proved, whether the plaintiff is entitled to injunction prayed for? OPP*
3. *Whether jurisdiction of this Court is barred u/s 149 of the Punjab Municipal Corporation Act? OPD*
4. *Whether no notice u/s 3967 of the Punjab MC Act was served before filing suit? OPD*

5. Relief.

8. The plaintiffs-respondents examined as many as five witnesses to prove their case. Plaintiff Vijay Kumar himself stepped into the witness box as PW5 and also examined Ashok Kumar as PW2, Madan Lal as PW3, Ravinder Kumar Jain as PW4 and Vijay Kumar as PW5. On the other hand, the defendants-MC examined Hardip Singh, Inspector House Tax, Zona-A, M.C. Ludhiana as DW1.

9. After hearing learned counsel for the parties, the learned trial Court dismissed the civil suit vide judgment dated 22.11.2004 inter-alia on the ground that jurisdiction of the Civil Court for assessing the house tax is barred and in support of its reasoning the learned trial Court placed reliance upon the law laid down by the Apex Court in ***N.D.M.C. vs. Satish Chand 2003(2) Apex Court Judgments 384*** and by this Court in ***Vinod Kumar vs. Municipal Corporation, Ferozepur 2002(2) RCR (Civil) 247.***

10. The appeal preferred by the plaintiffs-respondents before the learned First Appellate Court which was allowed vide judgment dated 07.03.2006 on the ground that the plaintiffs-respondents were not heard before levying the revised house tax and that no person could be condemned unheard. In support of its reasoning, the learned First Appellate Court placed reliance upon the judgment of this Court in ***Municipal Committee, Kharar vs. Sohan Lal (deceased) through L.Rs. 2005(2) PLR 783.***

11. Few facts of this case are undisputed which are as under:-

a) All the three plaintiffs (respondents herein) were joint owners of the property i.e. Unit No. B.IX.39/2.

b) The said property was subjected to house tax and in the year 1992-93 house t ax of Rs. 421.20 paise was levied for one year.

c) The house tax was revised at the rate of Rs. 810/- w.e.f. 1993-94 till 1996-97.

d) The fire took place in the year 1991 during Diwali festival and the property was damaged and certain repairs were carried out.

e) On 08.10.1996, notice Ex.P11/Ex.D1 under Section 103 of the PMC Act was received by the plaintiffs on account of revision of house tax for the year 1996-97 due to additions and alterations.

f) Plaintiffs-respondents replied to the said notice by raising objection Ex.P12/Ex.D2 and verification Ex.D3 was done, thereafter final order Ex.D4 regarding assessment of house tax was passed.

12. Learned counsel for the defendants-MC submitted that PW5 Vijay Kumar was duly heard and his objection Ex.P12 was duly considered, verified and thereafter final order Ex.D4 was passed. Jurisdiction of the Civil Court is barred under Section 149 of the PMC Act. However, learned counsel for the plaintiffs-respondents submitted that the plaintiffs were not heard before issuance of notice Ex.P11/Ex.D1 under Section 103 of the PMC Act and before rejection of their objections and passing of final order Ex.D4.

13. PW5 Vijay Kumar in his affidavit Ex.PW5/A duly corroborated the averments made in the plaint. The other witnesses examined by the plaintiffs also corroborated the averments of the plaint. PW5 Vijay Kumar when subjected to cross examination admitted as correct that *"the Municipal Corporation had called me for consideration of my objection but Municipal Corporation had rejected my objection"*. In the light of this admission on the part of Plaintiff No.1 Vijay Kumar (PW5), the submission of learned counsel for the plaintiffs-respondents cannot be accepted that the plaintiffs were not heard before passing the final order Ex.D4 and issuance of notice Ex.P11/Ex.D1 and for this

reason the judgment rendered in ***Municipal Committee, Kharar vs. Sohan Lal (supra),*** cannot be applied to the facts of the present case. The learned First Appellate Court committed error by holding that Municipal Corporation, Ludhiana acted beyond the provisions of law. There is nothing brought on record by the plaintiffs-respondents that levying of house tax by the defendant-Municipal Corporation was not permitted under the PMC Act and on this also the learned trial Court wrongly held that the jurisdiction of the Civil Court is not barred. Section 149 of the PMC Act reads as under:-

> ***"149. 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 claimable by any person otherwise than in accordance with the provisions of this Act and the rules thereunder."*

14. The aforesaid Section clearly bars the jurisdiction of the Civil Court and the appropriate remedy before the plaintiffs-respondents was to approach the Appellate Authority under PMC Act against the impugned order Ex.D4 and notice Ex.P11/Ex.D1.

15. The appeal is liable to be allowed on another ground. The plaintiffs had not brought on record the original sanctioned plan of the property bearing Unit No. Unit No. B.IX.39/2; when it was constructed and the site plan after repairs were carried on therein i.e. the existing/present site plan of the property as in the year 1996-97; when revised house tax was levied to rebut the case of the defendants-MC that there was no addition in the suit property.

16. In view of the foregoing discussion, this Court has no hesitation in holding that the learned First Appellate Court committed error in decreeing the civil suit filed by the plaintiffs (respondents herein). The appeal filed by the defendants-Municipal Corporation, Ludhiana is allowed and the judgment rendered by the First Appellate Court dated 07.03.2006 is set aside and the judgment and decree passed by the trial Court vide judgment dated 22.11.2004 is restored. The original suit filed by the plaintiffs is ordered to be dismissed.

Pending applications, if any, also stand disposed of.

(RAMESH KUMARI)
JUDGE

24.04.2026
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No