

2025.PHHC.054795-DB



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

**LPA-1167-2025 (O&M)**

**Date of decision: 25.04.2025**

HUMESH KUMAR

.....Appellant

Versus

RAMAN KUMAR GAUTAM & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

Present:- Mr. Sunil Chadha, Sr. Advocate with  
Mr. Akshay Chaadha, Advocate for the appellant.

Mr. Saurav Kanojia, Advocate  
for respondent No.1-Caveator.

**SUDHIR SINGH, J.**

**CM-2859-LPA-2025**

Allowed as prayed for and documents Annexure A-1 to  
A-12 are taken on record.

**LPA-1167-2025**

Challenge in the instant intra Court appeal is to the order dated 17.03.2025 passed by the learned Single Judge, whereby the writ petition filed by respondent No.1-Raman Kumar was disposed of with a direction to the appellant (respondent No.5 in the writ petition) to handover the possession of the demised premises to respondent No.3-Municipal Corporation, Ludhiana within a period of three weeks from the date of receipt of the certified copy of the order and the Municipal Corporation, Ludhiana, was directed to take all the necessary steps/action to get the building in question demolished

either through the writ petitioner or on its own, at the expenses of the writ petitioner (respondent No.1).

2. The brief facts of the case are that respondent No.1 had purchased the property bearing Municipal No.B-34, 4026, Street No.04, Opposite Suraj Book Shop, Durgapuri, Haibowal Kalan, Ludhiana, measuring 64.50 sq. yards, vide sale deed dated 20.04.2023. In the aforesaid property, a portion measuring 12.5 ft. x 6 ft. was rented out to the appellant (respondent No.5 in the writ petition). The age of the said building was stated to be more than 50 years and in September, 2023, the appellant of his own made certain alterations in the said building, thereby damaging and disintegrating the structure of the building. Respondent No.1 requested the appellant not to carry out the alterations, keeping in view the old nature of the building, but to no avail, which had constrained him to file a civil suit seeking permanent injunction. In the said civil suit, vide order dated 24.05.2024, the appellant was restrained from making any alteration, addition or raising any construction on the roof of the said shop and respondent No.1 was also restrained from interfering in the peaceful possession of the appellant. Respondent No.1 submitted a complaint dated 03.05.2024 to the Municipal Corporation, Ludhiana, stating therein that the building was unsafe for human habitation. As at the relevant time, model code of conduct was in operation due to elections, another complaint was submitted by him through the Election Commission, for directing the Municipal Corporation, Ludhiana to seal the aforesaid property as the same was in a dilapidated condition, whereupon the District Election Officer,

Ludhiana, directed the Municipal Corporation, Ludhiana to take necessary action on the complaint of respondent No.1. Accordingly, a report dated 25.05.2024 (Annexure P-4 with the writ petition) was submitted by the empanelled Civil Engineer stating that the building was unsafe for any kind of occupation and it was advised to dismantle the affected areas as early as possible in order to avoid any further mishappening. The Assistant Town Planner of Municipal Corporation, Ludhiana, vide notice dated 30.05.2024, called upon the appellant as also respondent No.1 to demolish the old construction on the spot to avoid any untoward incident. Still further, the office of the Punjab State Power Corporation Limited (PSPCL) had also issued a letter dated 22.04.2025 (Annexure P-8 with the writ petition) to the said parties intimating that the electricity connection of the shop could be disconnected temporarily and it would be restored only after the fitness certificate of the shop was taken from the Municipal Corporation. The Directorate, Local Government, Punjab, Municipal Building, Chandigarh had also issued a letter dated 10.09.2024 (Annexure P-9 with the writ petition) to the Commissioner Municipal Corporation, Ludhiana, to take action on the complaint of respondent No.1 regarding the shop being unsafe for human habitation or any occupation. When the respondent-authorities did not take any action under the provisions of the Punjab Municipal Corporation Act, 1976, respondent No.1 filed the writ petition.

3. The learned Single Judge, has disposed of the writ petition with the requisite directions to the respondent-authorities, as indicated above.

4. Learned counsel appearing for the appellant has vehemently argued that as many as 8 cases are pending between the appellant and respondent No.1 and even respondent No.1 has been restrained from interfering in the peaceful possession of the appellant over the portion of the demised premises. It is further argued that when the Civil Court is already seized of the matter, the very approach of respondent No.-1 in approaching this Court by filing the writ petition is indicative of the fact that he is hell bent to seek the ouster of the appellant from the portion of the demised premises. It is also argued that the conduct of the officials of the respondent-authorities also requires a thorough probe as the said authorities have got the notice(s) issued, despite the fact that the civil suit is already pending between the parties in respect of the same cause of action and pertaining the same dispute. It is further argued that while passing the impugned order, the learned Single Judge has lost sight of the said material aspects and hence, impugned order is liable to be set aside.

5. We have heard learned counsel for the appellant and have also gone through the case file, including the impugned order.

6. A perusal of the order passed by the learned Single Judge would show that on 19.11.2024, when the writ petition was taken up for hearing, the counsel for respondent No.1 (writ petitioner) gave an undertaking that respondent No.1 was ready and willing to reconstruct the shop in question within a period of three months and thereafter, rent out the same to the appellant and that in case the reconstruction was not completed within the said period, respondent No.1 would be paying the appellant market rent prevalent in the vicinity in respect of

similar kind of shop till the time the possession of the said portion of the shop was handed over to him, on rent. On the subsequent date, an affidavit dated 26.11.2024 of respondent No.1 was filed in this regard. Pursuant thereto, the counsel for the appellant suffered a statement that the terms of the aforesaid agreement were agreeable to the appellant and he had sought time to file requisite affidavit of the appellant in this regard. However, despite having availed various opportunities, no such affidavit was filed. On 18.12.2024, a new counsel was engaged by the appellant stating that the earlier counsel had made a wrong statement on his behalf.

7. The learned Single Judge, after considering the facts and circumstances of the case has found that the property in question was unsafe for human habitation and accordingly issued the following directions:-

“5. Upon consideration of the matter as well as the stand taken by the petitioner in his affidavit dated 26.11.2024, I am of the considered view that there is sufficient material on record to indicate that the property in question is unsafe for human habitation and in order to ensure safety of the adjoining areas as well as the people crossing by, it would be appropriate to demolish the said building. Accordingly, respondent No.5 is directed to hand over the

possession of the demised premises to the Municipal Corporation, Ludhiana within a period of three weeks from the date of receipt of the certified copy of this order; whereupon, the Municipal Corporation, Ludhiana shall take all the necessary steps/action to get the building in question demolished either through petitioner or on its own, at the expenses of petitioner.

5.1 Let the aforesaid exercise be carried out by the Municipal Corporation, Ludhiana within a period of one month from the date when the property in question is handed over by respondent No.5 to the Municipal Corporation.

5.2 It is further directed that after the building in question is demolished, the petitioner would be entitled to reconstruct the shop after getting the requisite permissions/sanctions, building plan, approval, etc., as may be required, from all the competent authorities within a period of next six months and in any case, before 31.12.2025. Further, keeping in view the undertaking given by the petitioner before this Court vide his

affidavit dated 26.11.2024, after reconstructing the property/shop, the petitioner shall rent out the same to respondent No.5 itself on the same rent, as was being earlier paid by him, as well as on the same terms and conditions of lease/agreement, if any. It is made clear that in case, petitioner fails to reconstruct the shop/property in question within the aforesaid stipulated period of six months or up to 31.12.2025, the petitioner shall be liable to pay the market rent, prevalent in the vicinity in respect of the similar kind of shops, to respondent No.5, till the possession of constructed shop is handed over to him, on rent.

6. It is also made clear that the aforesaid directions are being issued only in the light of the fact that the property in question was unsafe for human habitation, however, this order shall have no effect on the other litigations which may be pending between petitioner (Raman Kumar Gautam) and respondent No.5 (Humesh Kumar).

8. The learned Senior counsel for the appellant could not controvert the claim of respondent No.1 that the property in question has become unsafe for human habitation and the only emphasis is on the various proceedings pending between the parties in the Civil Court. A perusal of the impugned order passed by the learned Single Judge would show that the interests of the appellant have been taken care of and it has been directed that after reconstruction of the shop in question, respondent No.1 (writ petitioner) would rent out the portion of the property in the occupation of the appellant to him on the same rent as was being earlier paid by him. We further find that the directions issued by the learned Single Judge, are in the interests of both the parties i.e., the appellant and respondent No.1 and merely because the civil proceedings are pending between them, is no ground to hold that the directions issued by the learned Single Judge are untenable, especially when the building in question is in a dilapidated condition and not safe for human habitation.

9. No other point has been urged.

10. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

11. Pending application(s), if any, shall also stand disposed of.

**[ SUDHIR SINGH ]  
JUDGE**

**[DEEPINDER SINGH NALWA]  
JUDGE**

25.04.2025

Himanshu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No