

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

211

RSA No.4039 of 2011(O & M)

Date of Decision:07.09.2015

Union of India and others

....appellants

Versus

Parminder Singh and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

1.Whether Reporters of local papers may be allowed to see the judgement?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr.D.D.Sharma, Advocate
for the appellants

Mr.Gurcharan Dass, Advocate
for the respondents

ARUN PALLI, J.(ORAL):-

Suit filed by the plaintiff was decreed by the trial Court vide judgement and decree dated 05.11.2007. Appeal preferred against the said decree failed and was dismissed on 07.03.2011. This is how, defendants No.1 to 3 are before this Court, in this Regular Second Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

The Courts below, on a consideration of the matter in issue and the evidence on record, concluded that the suit property was sealed by the officials of the Department, though, they had no physical charge over the said property. Ex.DS revealed that the Department only had a charge only over the plant, machinery as

also the raw material lying in the said property. Kapil Sood-DW2, Superintendent, Central Excise Sangrur, had admitted in his cross-examination that the Department had no lien over any other property except the properties of sureties mentioned in the bonds B-17. Further, he did not know that Amarjit Singh son of Partap Singh-defendant No.5, was not the owner of the suit property on 01.03.2002. On the contrary, the suit property was owned by plaintiff Parminder Singh, pursuant to a registered sale deed dated 27.02.2001 (Ex.P1). In his statement (Ex.P1), Amarjit Singh testified that the plaintiff had purchased the suit property from him (defendant No.5), and the later was put in possession thereof. But admittedly, defendants No.1 to 3, had a charge over the articles i.e.plant, machinery and the raw materials and the Department could take possession thereof. However, the possession of the immovable property was required to be restored to the plaintiff. Accordingly, a decree for mandatory injunction was passed in favour of the plaintiff, directing defendants No.1 to 3 to open the seal and locks upon three halls of the property that had been seized by them. The seized goods shall be kept by defendants No.1 to 3 in their custody, in terms of the departmental rules.

Learned counsel for the appellants could not point out as to how the findings that were concurrently recorded by both the Courts were either contrary to the position on record or suffered from any material illegality. No other argument was advanced.

In the wake of the position as set out above there hardly exists any ground, least plausible in law to interfere with the decree

being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration in the present appeal. The same being devoid of merit is accordingly, dismissed.

07.09.2015

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(ARUN PALLI)
JUDGE