

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

RSA No.3296 of 2012 (O&M)
Date of decision: 4.8.2015

Bajigar Banjara Dharamshala

...Appellant

Versus

Kurukshetra Development Board, Kurukshetra and others

.....Respondents

CORAM: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. N.S. Shekhawat, Advocate, for the appellant.

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RAJESH BINDAL, J.

One for the defendants is before this Court against the judgment and decree of the learned lower appellate court, whereby that of the trial court was reserved and the suit filed by respondent No.1-plaintiff was decreed.

In the case in hand, respondent No.1/plaintiff filed a suit for permanent injunction restraining the defendants from raising any construction on the land in dispute. The ownership of the plaintiff on the property is not in dispute. The appellant raised certain construction on the suit property. It is claimed that the same is being utilised for pilgrims, who came to Kurukshetra on different occasions. The property is being used for the same purpose, for which it is to be used by respondent No.1/plaintiff.

The submission of learned counsel for the appellant is that the trial court had rightly dismissed the suit. However, the learned lower appellate court wrongly reversed the findings. In a suit for permanent injunction, direction has been given to remove the construction.

After hearing learned counsel for the appellant, I do not find any merit in the present appeal.

Title of the property being with respondent No.1/plaintiff is not in dispute. Though it is sought to be claimed that the appellant can be

dispossessed in due course of law, but the fact remains that there is an order dated 8.8.1994 passed by the Collector under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (for short “the Act”) directing ejectment of the appellant from the property in dispute. But despite that the appellant is still continuing in possession of part of the property and on certain area, even further construction has been raised.

Once there is already an order passed by the Collector under the Act against the appellant directing its eviction from the property in dispute, it has no right to continue in possession thereof, even if it is sought to be claimed that constructed portion is being used for the same purpose, for which it is to be used by respondent No.1/plaintiff. Any area owned by a public authority is always for planned development. There is no error in the direction given by the Collector for removal of the construction from the site and in the judgment of the learned lower appellate court decreeing the suit filed by respondent No.1/plaintiff. No substantial question of law arises. The appeal is accordingly dismissed. Consequently, the accompanying applications are also dismissed.

Before parting with the order, it is observed that if the appellant wants to leave the constructions and the temple, if any constructed on the suit land, it can hand over the possession thereof to respondent No.1-Board, if the appellant so desire for use by it, if possible.

(Rajesh Bindal)
Judge

4.8.2015

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