

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

RSA No.2094 of 2013

Date of decision: December 21, 2015

Madan Lal Sharma and another

-Appellants

Versus

Ludhiana Improvement Trust, Ludhiana

- Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vikas Mohan Gupta, Advocate
for the appellants.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Plaintiffs are in second appeal in a suit for permanent injunction and mandatory injunction.

[2]. Plaintiffs sought restraint against the defendant-Trust on the ground that one Rupa Gill was the original allottee of the plot in question which was allotted to her on 04.01.1985 in the category of Local Displaced Persons. Since the plot was not available, therefore, again a letter was issued on 31.03.1999 and she was allotted plot No.802-F. The terms and conditions of the allotment remained the same. Plaintiffs alleged that they have purchased the plot from the original allottee vide sale deed dated 20.02.2003. An application for transfer of the plot in favour of plaintiffs was rejected on the ground of non-construction of site and for want of payment of the charges to the tune of Rs.60,000/-. Accordingly, building plan was also not sanctioned. With this background, the suit came to be filed.

[3]. Defendant-Trust contested the suit on the ground that

construction was to be raised within a period of three years as per rules and regulations of the defendant-Trust. Since the plaintiffs and their predecessor failed to raise construction within stipulated period, therefore, domain was strictly in accordance with law and instructions of the State wherein allottee was bound to raise construction over the plot within three years.

[4]. Having considered the controversy, both the Courts have concurrently dismissed the claim of the plaintiffs on the ground that plaintiffs have filed affidavit Ex.DX to the effect that vendor of the plaintiffs had already paid the requisite dues. Since the factum of payment by the vendor was not proved on record, therefore, claim of the plaintiffs has not been entertained. Such findings recorded by both the Courts below cannot be said to be perverse or misreading of evidence on record.

[5]. The controversy in the nature of present lis based on instructions of the Department which are sufficient to claim the dues towards non-construction charges. No law point worth consideration is involved. Consequently, the present appeal is dismissed.

(RAJ MOHAN SINGH)
JUDGE

December 21, 2015
prince