

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 4276 of 2013 (O&M)
Date of decision: 20.4.2015

The State of Haryana and others

.. Appellants

v.

Mollu Ram and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Raj Kumar Makkad, Deputy Advocate General, Haryana.
Mr. K. S. Banyana, Advocate for the respondents.

...

Rajesh Bindal J.

The State is before this Court against concurrent findings of fact recorded by both the courts below, whereby the suit filed by the respondents for declaration claiming ownership and possession on the suit property, was decreed. It was claimed by the respondents that the property in dispute was purchased by their father vide sale deed dated 1.3.1996 from the owner thereof as per the revenue record. Mutation was sanctioned thereafter. The suit was filed when the respondents came to know that the State was going to auction the property.

The stand of the State was that the property was allotted to one Jiwan Dass son of Nihal Chand in the year 1995, however, when later on the record was scrutinised, it was found to be a case of double allotment. The proceedings for cancellation of allotment were initiated and vide order dated 2.2.2000, Chief Settlement Commissioner, Haryana cancelled the allotment. The same was incorporated in the revenue record on 3.10.2000. Thereafter, the Central Government had become owner of the suit property.

The primary contention raised by learned counsel for the respondents-plaintiffs before the courts below was that before cancelling the allotment, no notice was issued to them, even though they were recorded as owners in the revenue record. The aforesaid fact has not been disputed by counsel for the appellants. However, he referred to an order passed by this court in RSA No. 4357 of 2012—State of Haryana and others v. Krishan Lal, decided on 19.10.2012, whereby while dismissing the appeal filed by the State, it was left open to the State to proceed afresh after giving notice to the affected person.

After hearing learned counsel for the parties, I do not find any reason to interfere with concurrent findings of fact recorded by both the courts below to the effect that no notice was issued to the respondents before cancelling the allotment, even though they had been shown as owners in the revenue record, as there is no dispute of that fact. Accordingly, no substantial question of law arises and the appeal is dismissed. However, considering the earlier order passed by this court in Krishan Lal's case (supra), it is left open to the State to initiate fresh proceedings after giving notice to the affected person(s) as the suit filed by the respondents was decreed only on the technical plea of violation of the principles of natural justice.

(Rajesh Bindal)
Judge

20.4.2015
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