

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

RSA No. 3826 of 2015 (O&M)

Date of decision: 13.08.2015

Estate Officer HUDA Kaithal and another

... Appellants

versus

Ishwar Singh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Pankaj Jain, Advocate for the appellants.

K.Kannan, J.

CM No. 9400-C-2015

For the reasons mentioned in the application, duly supported by an affidavit, delay of 18 days in filing the appeal is condoned.

CM is disposed of.

Main appeal

The appeal by HUDA is on a direction given by the two Courts below allowing for the allotment under the terms of Oustees Policy property corresponding to the property acquired from the original owners. The Oustees Policy provides for an allotment of alternate plots for persons from whom properties are acquired which are in excess of 100 Sq. Yds. As a corollary, if the property acquired is less than 100 Sq. Yds., there will be no compulsion for the HUDA to make any allotment. The plaintiffs had a contention that they were jointly entitled to 160 Sq. Yds.

and that having lost the land by acquisition, they are entitled to be accommodated under the Oustees Policy for the property proportionate to the extent of acquisition. The contention in defence was since each one of the claimants was entitled to only a share of 80 Sq. Yds. which was less than limit of 100 Sq. Yds. to be entitled to an allotment, the plaintiffs were not entitled to claim any allotment. The trial Court rejected the contention and directed the allotment to be considered for the total extent of 160 Sq. Yds. and distribute the property allowable to the two owners equally which in this case worked out to 3 marlas each. This decision was affirmed in first appeal and hence the second appeal.

The argument reiterated is that the respective co-owner's right must be worked out and if that co-owner is each entitled only to less than 100 Sq. Yds. there will be no need for accommodating the claim under the Oustees Policy. I reject the argument, the same way that the Courts below have done because the co-owner has a right every inch of the total property held in co-ownership. If only the property had been purchased separately and each owner had a specified and predicated interest separate to himself, which will be less than 100 Sq. Yds., the entitlement could be denied. If on the other hand, the property is purchased jointly or inherited jointly which is above the extent of 100 Sq. Yds., the entitlement for being allotted the property under Outsees Policy shall be obtained as a matter of course. The allotment under Outsees Policy must be seen as relevant only to the holding of a person or a group of persons who own more than 100 Sq. Yds. and from whom the acquisition is made. If between themselves they have fractional shares which had not been partitioned at the time of

acquisition and the holding was joint and above 100 Sq. Yds., then claims would be perfectly justified and that is how the policy must be read.

The trial Court and the Appellate Court have held what is proper and just and I will find no scope for intervention in second appeal. The regular second appeal is dismissed.

13.08.2015

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(K.KANNAN)
JUDGE