

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

Regular Second Appeal No.2330 of 2014 (O&M)

Date of decision: **17.09.2015**

Vikas Monga

... Appellant

versus

Municipal Council, Kotkapura, Tehsil Kotkapura, District Faridkot.
.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Surinder Gaur, Advocate,
for Mr. Surinder Garg, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J.

CM No.9662-C of 2015

Exemption granted, as sought for. Copy of plaint as well as written statement are taken on record.

Application stands disposed of.

Regular Second Appeal No.2330 of 2014

1. The appellant is the plaintiff in the suit. The suit was for declaration to the effect that the plaintiff is the owner and in possession of shops No.48 and 49 situated at Azad Market, Kotkapura. He had also sought for consequential relief of mandatory

injunction directing the defendant to execute sale deeds in favour of the plaintiff regarding the said shops.

2. The suit and appeal came to be dismissed on the basis of the judgment of the High Court in Civil Writ Petition No.4511 of 2001 titled, 'Hari Mitter etc. Versus the State of Punjab and others' decided on 13.03.2002. The challenge in the said writ petition was with reference to the instructions given by the State Government to the municipality to sell the property in the possession of respective tenants at half the market value. The court found the policy dictated by the State Government was arbitrary and without taking note of the financial resources of the Municipal Councils and allowed the civil writ petition. It directed that the sales contemplated or executed were required to be quashed. The decisions of the trial court and the appellate court which have anchored their own reasoning to the judgment of the High Court in the above said writ petition cannot be assailed.

3. I have not been shown through any decision of the Supreme Court modifying the aforesaid order in the writ petition. There is no scope for consideration of any plea by the plaintiff for a declaration in respect of the two shops or for any mandatory injunction for execution of sale deeds. Even if any sale deed has been executed, it cannot be valid in the light of the judgment of the High Court and all that the plaintiff would be entitled is to secure

back any consideration that he may have passed to the Municipal Council at the time of execution of any of the documents on the basis of the policy which came to be set aside by the High Court.

4. The second appeal is dismissed as devoid of merits and involving no substantial question of law for consideration.

(K.KANNAN)
JUDGE

17.09.2015

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