

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

RSA No.6176 of 2015 (O&M)

Date of Decision: December 19, 2015

Kaka Singh and others

.... Appellants

vs.

Nirmal Singh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Dinesh Ghai, Advocate for the appellants.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Impugned in the present regular second appeal is the judgment and decree dated 12.10.2015 passed by learned Addl. District Judge, Sahibzada Ajit Singh Nagar, Mohali, affirming the judgment and decree dated 25.04.2013 passed by learned Addl. Civil Judge (Sr. Divn.), S.A.S. Nagar, Mohali, vide which the suit of the plaintiff for possession was decreed.

The plaintiff had filed a suit for possession regarding land measuring 24 kanals 13 marlas, which according to him was purchased by him from his father, vide sale deed dated 01.03.1983. The plaintiff also claimed the mesne profits. The lower court decreed the suit for possession as well as mesne profit.

I have heard learned counsel for the appellants and have also carefully gone through the case file.

Learned counsel for the appellants has argued that in this case, the land was declared surplus and allotted to the father of the parties, namely, Hazura Singh. It is further stated that the allotment was cancelled on 12.01.1984, stating that the panchayat land could not have been declared surplus. Therefore, both the courts below have erred in granting decree for possession and mesne profits.

I am of the view that if allotment of land is cancelled, it is the dispute between the State and the plaintiff and the defendants could not retain the possession of the land, which was purchased by the plaintiff on the basis of sale deed, executed on 01.03.1983 by his father in favour of the plaintiff. Both the courts below have recorded the findings of facts to the effect that the land was purchased by the plaintiff and that the possession of the defendants is illegal. It being so, no fault can be found with the said findings. If the allotment of the said land in favour of the plaintiff is cancelled and the said land include the suit land purchased by the plaintiff from his father, it is the dispute between the plaintiff and the State and the decree passed in this case is always subject to the rights created in favour of the State by subsequent order of the competent authority. However, the defendants cannot retain the illegal possession. No substantial question of law arises in the present appeal.

Learned counsel for the appellants further contends that before the first appellate court, an application was moved under XLI, Rule 27 CPC, wherein the copy of the writ petition and certain affidavits were sought to be produced and were not allowed to be

produced.

After going through the judgment of first appellate court, I am of the view that these affidavits had nothing to do to with the controversy between the parties as the order of cancellation of the allotment passed in LPA No.247 of 2015, at the most will revert the land to its original owners and not to the defendants.

Hence, the present regular second appeal stands dismissed.

December 19, 2015
sarita

(KULDIP SINGH)
JUDGE