

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

(1) RSA No. 3710 of 2014 (O&M)
Date of decision: August 31, 2015

Jasbir Singh

...Appellant

Versus

The State of Haryana and others

...Respondents

(2) RSA No. 4176 of 2014 (O&M)

Krishna Devi

...Appellant

Versus

The State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

Present: Mr. Aakash Singla, Advocate,
for the appellant.

K. KANNAN, J. (Oral)

CM No. 8553 C of 2014 in
RSA No.3710 of 2014 and
CM 9685 C of 2014 in
RSA No. 4176 of 2014

For the reasons stated in the applications, delay in filing the appeals is condoned.

Main case

1. Out of these two appeals, the counsel makes no submissions with reference to RSA No. 4176 of 2014. I dismiss the same, as it raises no point for consideration.

2. In respect of RSA No.3710 of 2014, the plaintiff came to file a suit for injunction to fend off a decree obtained by the defendants against the plaintiff's mother for ejectment and in purported exercise of his right under such a decree he was trying to create a disturbance to the plaintiff's possession. The plaintiff relied on a sale certificate issued in favour of the plaintiff by the government on 10.4.2000 delivering him the property. The contention in defence was that in relation to the very same property and a larger extent of 44 kanals which included two 2 kanals set forth in the suit there had been an auction by the Rehabilitation Department in the year 1989 and the 3rd defendant had been the purchaser in the auction. The contention, therefore, was that the government had no power to issue a sale certificate in relation to 2 kanals of land and the plaintiff would obtain no better right to hold on to such a property and prevent the defendants from taking the possession in execution of the decree that they had obtained. The trial court granted the decree and the first Appellate Court confirmed the same.

4. In the second appeal, the learned counsel for the appellant argues that only the Government of Haryana has granted the sale certificate and, therefore, his possession should be protected. When the point put at issue was, whether the government could have lawfully created a sale in relation to a property which had already been auctioned in the year 1989, the plaintiff is bound to show that the 2 kanals of land was not part of 44 kanals, which has already been sold in the auction or that the previous auction held in the year 1989 had been cancelled partially to make possible for the State to make an assignment of 2 kanals in favour of the plaintiff over again through a sale certificate. The plaintiff's failure to establish the title on the basis of purchase through a sale certificate cannot secure to him

the benefit of injunction against a person who holds better title. If the title of the 3rd defendant was also denied then even the so called possession of the plaintiff cannot help him to secure a relief against such a true owner.

5. I find no substance for consideration in the second appeal in favour of the plaintiff and dismiss the second appeal being devoid of merit.

August 31, 2015
prem

(K.KANNAN)
JUDGE