

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

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**RSA-3914-2014 (O&M)
Date of Decision:29.09.2015**

MUNICIPAL CORPORATION YAMUNA NAGAR ... Petitioner

Versus

DALJIT SINGH

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Jatinder Nagpal, Advocate
for the appellant.

RAJ MOHAN SINGH, J. (Oral)

[1]. Municipal Corporation is in second appeal against the judgments and decrees passed by the Courts below.

[2]. Plaintiff filed a suit for mandatory injunction directing the defendants to deliver possession of plot measuring 500 sq. yards for installation of dairy in the Dairy Complex, Village Aurangabad, District Yamuna Nagar.

[3]. Under the policy and scheme, which were notified for the purposes of shifting dairy farming in the area, plots of different sizes were to be allotted for which applications were invited. Plaintiff applied for the plot and also deposited 10% of earnest amount on 15.07.2004 out of total tentative price of Rs.1,62,500/-. 15% of the amount was also deposited on 14.06.2007 and the case was referred for allotment of the plot.

[4]. Thereafter, the appellant-Municipal Corporation conveyed a decision based on Resolution No.26 dated 30.05.2008 that the application of the plaintiff and other similarly

situated persons have been cancelled and amount is required to be refunded to them.

[5]. Plaintiff invoked the jurisdiction of Civil Court by way of seeking mandatory injunction directing the defendants to deliver the plot in question on the basis of allotment made to him.

[6]. Apparently, plot was allotted to the plaintiff in Aurangabad, Dairy Complex. Plaintiff paid 10% of the total amount on 15.07.2014 and thereafter, also deposited 15 per cent of the total amount against receipt No.4 dated 14.06.2007. It shows that the defendants have allotted the plot to the plaintiff and only possession was to be delivered to the plaintiff on receipt of balance sale consideration.

[7]. However, on 03.08.2008, a resolution was passed by the appellant, wherein it was contended that the second plot would not be allotted to a person if a plot had been allotted to him earlier. The decision taken under the aforesaid resolution was made effective with retrospective effect, which according to the trial Court as well as Lower Appellate Court cannot be permitted to operate with retrospective effect and has no binding effect on the rights of the plaintiff because at the time of allotment, no such decision was in existence and retrospective operation of such resolution would take away legal right of the plaintiff/respondent.

[8]. Admittedly, there was no such condition at the time of allotment of the plot, even otherwise trial Court took note of precedents, wherein it has been shown that two plots have been

allotted to one Ripu Daman Singh who is none-else the son of the plaintiff. The fact has been admitted by Sachin Gupta DW-1 who appeared as defendant's witness and he deposed before the Court with reference to the evidence on record.

[9]. Both the Courts after taking stock of factual details available on record have concurrently found that plaintiff is entitled for mandatory injunction.

[10]. No question of law worth consideration of this Court is involved. No ingredients/particulars of fraud have been pleaded and proved on record. Resultantly, this appeal totally bereft of merit and the same is accordingly dismissed.

September 29, 2015
prince

(RAJ MOHAN SINGH)
JUDGE