

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

RSA-3343 of 2009 (O&M)

Date of decision: 31.03.2016

M/s Gates India Automotive Industrial Products and another

...Appellants

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. A.S. Chadha, Advocate
for the appellants.

Mr. Saurabh Mohunta, DAG, Haryana.

Jitendra Chauhan, J. (Oral)

The suit for declaration with consequential relief of permanent injunction filed by the appellant/plaintiffs (for short 'the appellants') was dismissed by the trial Court, vide judgment and decree dated 17.10.2007.

2. Aggrieved against the findings of trial Court, the appellants filed an appeal which was dismissed by the learned 1st Appellate Court, vide judgment and decree dated 06.03.2009.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral

as well as documentary evidence on record, hence, the instant appeal has been filed by the appellants.

4. The brief facts of the case are that appellant No.1 is a firm having its work site at N.H.3, near Hill Side, NIT Faridabad and appellant No.2 is its sole proprietor. Earlier the said site was leased out by way of memorandum of agreement dated 15.03.1995, entered between the President of India and M/s Faridabad Industrial Quarrying Company, who left the premises in the year 1972 and since then, the appellant's firm is in actual and physical possession of the same. The appellant started its business of manufacturing of industrial rubber products and developed the plot. It was built by the Ministry of Rehabilitation in the year 1952 and Ministry kept on managing the compensation pool properties through its Managing Officer. On 31.03.1981, the Central Government transferred the assets to the Government of Haryana under the administrative and Financial arrangements. The site in question was also transferred for the purpose of management to the State of Haryana. A notice dated 22.02.1975 was issued by the Managing Officer to the appellant to vacate the premises. Thereafter, the plaintiff represented to the Chief Settlement Commissioner, Govt., of Haryana that the land and building be transferred to the appellants on reasonable price. Thereafter, a High

Power Committee was constituted, wherein the rate of different land as per their location was fixed. The rate of the appellant's land was fixed at Rs.2000/- per sq. yard. Thereafter, the appellant submitted a representation dated 26.06.2001 to the respondent to the effect that the determination of the price was absolutely without any basis as the price fixed was higher than the prevalent rate. The appellant requested the respondent to dispose of the objection raised by him and further requested to give an opportunity of hearing but in vain. Thereafter, an eviction order was passed by the Estate Officer, Faridabad, vide order dated 05.06.1980.

5. On behalf of the appellants, it is contended that the appellant's firm was in existence since the year 1972 when M/s Faridabad Industrial Quarrying Company left the premises. The property in question is a compensation pool property which is managed under the Displaced Person (Compensation & Rehabilitation) Act, 1954. The learned counsel refers to the policy dated 11.07.1988, formulated by the State of Haryana, whereby it was decided that all the persons in occupation of the compensation pool properties should be transferred as plots in their names and their possession should be regularized. The price of the property in dispute was fixed @ Rs.2000/- per sq. yard which is quite higher

than the market rate. The appellants have approached the concerned authority to re-consider over the rate of the property, however, the respondents have failed to respond to the representation filed by the appellants. Even the price was fixed at the back of the appellants and no opportunity of hearing had been afforded to the appellants, which is against the principle of natural justice.

6. In support of his contentions, the learned counsel cites Ajab Lal Sahni Vs. Union of India, AIR 1974 (P&H) 3, Labha Ram Vs. Union of India, 1965 PLR 4, Balwant Singh Vs. Deputy Chief Settlement Commissioner, 1965 CLJ 655, Karam Chand Thakur Dass Vs. Union of India, AIR 1967 Punjab 85, Bhiru Mal Vs. Functional Commissioner, 1967 PLR 656 and SJS Uppal Vs. Chief Settlement Commissioner, 1957 PLR 27.

7. On the other hand, the learned State counsel has argued that the appellants have no right, title or interest over the suit land. The suit land was initially given on lease to M/s Faridabad Industrial Quarrying Company for a period of 10 years. The lease period had expired on 25.08.1967, however, the possession of the land was not delivered to the Rehabilitation Department of the Government. Thereafter, the suit land was transferred in the name of Govt., of Haryana on 31.03.1981 and the plot in question was

also transferred for the purposes of management to the State of Haryana. The appellants was also asked to vacate the suit land before transferring the land to the State of Haryana, vide notice dated 22.02.1975. Thereafter, the eviction order was passed against the appellants, vide order dated 05.06.1980. He further contends that the appellants have no locus standi to challenge the suit being a trespasser and illegal occupant of the suit land.

8. Heard, the learned counsel for the parties and perused the record minutely.

9. It is admitted fact of the parties that initially the suit land measuring 4840 sq. yards was given on lease to M/s Faridabad Industrial Quarrying Company in the year 1957, vide memorandum of agreement dated 15.03.1955, entered between President of India and M/s Faridabad Industrial Quarrying Company. It is also admitted that the appellants are neither the owners nor the allottees of the property in question. No document has been brought on record as to how the appellants came into possession of the suit property. The earlier company had no right to sub lease the property to the appellants' company. It has been amply proved on record that the State Government is the owner of the suit property. Even, the appellants' company has not paid any rent to the Government after the eviction order. The appellant

being an encroacher deserves no hearing from the respondent. Therefore, the question of any violation of the principle of natural justice is not involved at all. The State Government has already taken a lenient view against the appellant by reconsidering the matter and by fixing the the rate of the suit land @ Rs. 2000/- per sq. yard. The appellants' company has no justifiable right to use the suit property which is a State Government property. There is nothing on record to justify the claim of the appellants. Thus, in the absence of any such document or evidence, this Court is of the opinion that both the Courts below have rightly non suited the appellants.

10. There are concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties. Therefore, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. Neither any evidence is shown to have been ignored from consideration, nor there is any misreading of evidence. The case law cited by the learned counsel is distinguishable on facts and will not apply in the present case. Accordingly, the present appeal fails and same is hereby dismissed. No costs.

11.. At this stage, this Court is at loss to understand as to

why no action was initiated by the State to prompt the appellant from entering the possession. It appears that the appellant has been operating from the site in question with the active connivance of the concerned State officials. The appellant has enjoyed the premium property for decades. Therefore, the respondents are directed to take the possession of the property forthwith. A compliance report in this regard be sent to the Registrar General of this Court within a week after the receipt of certified copy of the judgment.

31.03.2016

*sumit.k***(JITENDRA CHAUHAN)**
JUDGE