

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

RSA No. 1822 of 2011 (O &M)
Date of Decision: 1.4.2016

State of Haryana and others

..Appellants

Versus

Rishi Pal and another

..Respondents

CORAM: Hon'ble Mr. Justice Jitendra Chauhan.

Present : Mr. Saurabh Mohunta, Advocate,
for the appellants.
Mr. J.P. Sharma, Advocate,
for respondents No. 1 and 2.

JITENDRA CHAUHAN, J.

This appeal has been filed by the defendants against the judgment and decree dated 29.1.2011 passed by District Judge, Karnal vide which the appeal filed by the plaintiffs was allowed and the judgment and decree dated 21.12.2009 passed by trial Court was set aside.

In brief, the plaintiffs filed suit for permanent injunction on the averments that plaintiffs are the owners in possession of the land measuring 84K-15M comprised in Khewat No. 35/34, Khatonis No. 80 and 81, Rect. No. 36, Killas No. 19/2 (2-4), No. 23(8-0), No. 24 (6-16), Rect. No. 42 Killa No. 11 (8-0), 20(8-0), 21(8-0), 22(7-10), 23(2-5), Rect. No. 43, Killas

No. 14(6-13), 15(8-0), 16(8-0), 17/1(3-7), 25(8-0) situated in village Jani, Tehsil and District Karnal. The land is being cultivated by the plaintiffs as owners. The Western Jamuna Canal is running towards the west side of the suit land for a long time. The defendants have started interfering into the peaceful possession of the plaintiffs. The plaintiffs requested the defendants not to interfere in the suit land but of no avail. Hence the suit.

Upon notice, defendants appeared and took the plea that the land in question stood acquired by the Government. Hence it had every right to deal with the land in any manner it liked.

The learned trial Court dismissed the suit by holding that since the land in question was acquired by the Government vide award dated 13.6.1979 and the payment of compensation amounting to Rs.14,442/- was received by the plaintiffs vide voucher Ex.D4 so the ownership of the land in question vested in the State.

Feeling dissatisfied the plaintiffs filed appeal before the lower Appellate Court. Vide judgment and decree dated 29.1.2011, the appeal was allowed and the judgment and decree passed by the trial Court was set aside. The lower Appellate Court observed that the suit land was not part of the acquired land, so, the defendants had no right to interfere in the peaceful possession of the plaintiffs.

Aggrieved against the judgment and decree dated 29.1.2011, the defendant-State is in Regular Second Appeal.

Learned counsel for the appellants has failed to show any document/Award vide which the suit land was acquired by the Government.

There is a finding of fact recorded by the lower Appellate Court that the land mentioned in para No. 2 of the plaint was never acquired by the Government. Vide Ex. D1, the notification acquiring land, Rectangle No. 42 was acquired whereas the Rectangle numbers of the suit land are 36 and 43. Consequently, the decree of prohibitory injunction was rightly passed by the lower Appellate Court. There is no scope of interference. No substantial question of law arises for consideration of this Court. Therefore, the present appeal stands dismissed.

(JITENDRA CHAUHAN)
JUDGE

1.4.2016
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