

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

LPA No. 1422 of 2016 (O&M)

DATE OF DECISION : 09.08.2016

Dashmesh Steel Rolling Mills

.... APPELLANT

Versus

Municipal Committee, Mandi Gobindgarh

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Nakul Sharma, Advocate,
for the appellant.

* * *

RAMENDRA JAIN , J.

1. The instant appeal under Clause X of the Letters Patent has been filed against the order dated 10.12.2015 rendered by the learned Single Judge, dismissing CWP No. 13447 of 2010 filed by the appellant firm seeking quashing of the order dated 19.11.1996 (Annexure P-1) passed by the Collector, Sub Division Amloh ordering eviction of the appellant from the property; and the order dated 24.5.2000 (Annexure P-2) delivered by the Commissioner, Patiala Division, Patiala, upholding the said order.

2. While dismissing the writ petition, the learned Single Judge has observed that initially, in the year 1974, the appellant firm had filed a suit for permanent injunction to restrain the respondent from dispossessing it from the disputed property, which was dismissed by the trial court vide judgment and decree dated 21.09.1978, and on appeal preferred by the appellant firm, its suit was decreed by the lower Appellate Court vide

judgment and decree dated 12.12.1979. Feeling aggrieved, the present respondent filed RSA No. 911 of 1980 challenging the judgment and decree rendered by the lower Appellate Court. The said RSA has been decided by this court vide judgment dated 04.01.2006, whereby rights of the parties have been determined and it has been held that possession of the appellant firm over the disputed property is unauthorised and the property vests in the present respondent. In this view of the matter, vide the impugned order dated 10.12.2015, the learned Single Judge has upheld the orders dated 19.11.1996 and 24.05.2000 (Annexures P-1 and P-2) challenged by the appellant firm in CWP No. 8679 of 2001.

3. Learned counsel for the appellant argued that since the property which is the subject matter of RSA No. 911 of 1980 and the present litigation is distinct and separate, therefore, the respondent was required to prove its ownership qua the land in dispute, which it has failed to prove. The respondent is claiming its ownership on the basis of Notification No. 16 dated 17.05.1950, which was superseded vide Notification dated 17.07.1954 (Annexure P-20) and this subsequent notification was not brought to the notice of this court in RSA No. 911 of 1980. The disputed property does not fall within the definition of the property as mentioned in clause (f) of Section 56 of the Punjab Municipal Act, 1911 (hereinafter referred to as 'the Act') and the respondent did not maintain a register under Section 56 (3) of the Act regarding the disputed property. No revenue record was shown by the respondent showing the disputed property to be owned by it. The finding recorded by this court in RSA No. 911 of 1980 was on different premises.

4. It is an admitted position that on 02.07.2001, while admitting CWP No. 8678 of 2001, against which the present appeal has arisen, the same was ordered to be heard along with RSA No. 911 of 1980. The appellant was very much aware of this fact. At that time, it did not agitate to argue that the property which was the subject matter of RSA No. 911 of 1980 and the said CWP was distinct and separate. The relevant portion of the order passed by learned Single Judge reads thus :-

*“It is pertinent to mention here that the aforesaid RSA No. 911 of 1980 has been decided by this Court, vide decision rendered on 04.01.2006, reported as **2006 (2) R.C.R. (Civil) 407**. The rights of parties have been determined by this Court vide judgment dated 04.01.2006 which is stated to have become final upto the Hon'ble Supreme Court. Once there is a finding recorded by this Court that possession of the petitioner over the disputed property is unauthorized and the property vests in the respondent – Municipal Committee, this Court is of the view that the impugned orders (Annexures P-1 and P-2) have been rightly passed.”*

The learned Single Judge has dismissed the writ petition on the ground that the rights of the parties have already been determined in RSA No. 911 of 1980 and therefore, the appellant firm is in unauthorised possession of the disputed property which vests in the Municipal Committee. The argument now sought to be raised in the appeal is only to delay the delivery of possession and does not arise from the order of the learned Single Judge.

Hence, we are not inclined to interfere with the impugned order passed by

the learned Single Judge, more particularly when the appellant firm has not been able to prove itself to be rightful owner of the disputed property by providing any document of its title.

Dismissed.

**(RAMENDRA JAIN)
JUDGE**

August 09, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes