

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.3854 of 2012 (O&M)

Date of Decision: December 02, 2016

M/s Sumit International D-63 Sports and Surgical Goods Complex,
Jalandhar & another

...Appellants

Versus

The State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Rajiv Sharma, Advocate,
for the appellants.

None for the respondents.

AMIT RAWAL, J. (Oral)

Appellant-plaintiffs are aggrieved of the dismissal of the suit seeking transfer of the plot, alleged to have been purchased by defendant No.3.

Mr.Rajiv Sharma, learned counsel for the appellant-plaintiffs submits that the suit was filed on 10.1.2008, whereas the arrangement was made in 1995 and the allotment in favour of defendant No.3 was on 19.3.1983, therefore, the Courts below dismissed the suit on the ground of limitation. Even mandatory injunction was sought against the Punjab Small Industries & Export Corporation Limited, through State of Punjab for transfer of the plot, but the same though has not been declined, but the plaintiffs were called upon to give the particulars of the partners of defendant No.3 firm. The Courts below should have granted the mandatory injunction.

I have heard the learned counsel for the appellant-plaintiffs, appraised the paper book and of the view that the suit was pre-mature as there is no rejection of the transfer. The appellant-plaintiffs had not complied with the requirement as indicated in the letter written by the Punjab Small Industries & Export Corporation Limited for production of the particulars of the partners for the purpose of transferring the plot in question. In case the appellant-plaintiffs comply with the requirement, the Corporation shall take action in accordance with law, but the suit, in my view, was not maintainable.

The finding rendered by the Courts below regarding the limitation, in my view, was totally erroneous as for relief of mandatory injunction, there is no time limit. In case there is breach, then the party would have a cause of action.

For the foregoing reasons, by holding the finding of the Courts below regarding limitation to be obiter, rest of the findings are affirmed.

The appeal stands disposed of.

December 02, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No