

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 2876 of 2015 (O&M)
Date of Decision : 12.02.2016

Onkar Singh

....Appellant

Versus

Chandigarh Administration, U.T. Chandigarh & anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rajinder Goyal, Advocate
for the appellant.

Surinder Gupta, J. (Oral)

Heard.

This is second appeal against the judgment passed by Civil Judge (Junior Division), Chandigarh whereby suit filed by plaintiff, seeking the relief of permanent injunction to restrain the defendants from demolishing the structure/*khokhas* of plaintiff and dispossessing them from their respective business located in village Nizampur Kumbra/Nizampur Burail, Sector 51, Chandigarh, unless alternate site to plaintiff is allotted, was dismissed.

Earlier, plaintiff had filed a writ petition against the action of defendants in which he obtained an injunction order in the year 1987 and that writ petition was finally decided on 24.11.1998. Vide notification under Section 4 of the Land Acquisition Act, 1984, issued on 03.07.1999, land of plaintiff was acquired and a final award was passed on 23.12.1998. Plaintiff has alleged that alternate sites were provided to number of similarly situated persons in Grain Market, Sector 26 and

Section 39, Chandigarh but plaintiff has been discriminated despite the decision by the defendants to rehabilitate plaintiff alongwith other petty traders, who were running their business at Mohali road in Nizampur Kumbra.

The defendants contested claim of plaintiff *inter alia* pleading that compensation for the land of plaintiff acquired vide award dated 23.12.1998, has been assessed which he could receive. Some other persons have filed Civil Writ Petitions No. 6336 to 6365 of 1999 regarding the same matter which were dismissed by this Court. Plaintiff had also filed CM No. 11350 of 1999 in CWP No. 6471 of 1999, which was also dismissed as withdrawn vide order dated 16.01.2001. There is no decision or policy of defendants to rehabilitate plaintiff or any other trader whose land was acquired, as such, plaintiff is not entitled to any alternate site.

Learned Civil Judge (Junior Division), Chandigarh while recording findings on issues no. 1 and 2 observed that plaintiff has received compensation of his acquired land and there is no policy which requires the defendants to allot him alternate site. The suit was held as not maintainable.

The findings of learned Civil Judge (Junior Division), Chandigarh were upheld by Ist Appellate Court.

Learned counsel for the appellant has argued that in the absence of statutory provision or policy of U.T. Administration, both the Courts below recorded the finding that no civil right had accrued to the appellant, enforcement of which he could seek by filing civil suit. On issue no. 3, the finding was

recorded that the suit is not maintainable. In view of findings on issue no. 3, the Court below should not have decided the case on merit. The findings on merit will prejudice claim of plaintiff before competent authority.

Learned Civil Judge (Junior Division), Chandigarh has observed that there is no statutory provision or policy of U.T. Administration under which plaintiff could file the instant suit to enforce his civil right. The suit was found to be not maintainable in view of the findings on issues no. 1 and 2 that plaintiff has no case for grant of relief of permanent or mandatory injunction as no civil right of plaintiff got infringed. However, this will not preclude plaintiff to pursue other remedy available to him.

In view of above, the instant appeal has no merit. No substantial question of law, requiring determination, arises in this appeal.

Dismissed.

February 12, 2016
jk

(SURINDER GUPTA)
JUDGE