IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

RSA No.4336 of 2013(O&M)

Date of Decision:-23.10.2017

Nagar Council, Patran.

......Appellant.

Versus

Food Corporation of India & Anr.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Pankaj Jain, Advocate for the Appellant.

Mr. Atul Gaur, Advocate for respondent no.1-Plaintiff.

Service upon respondent no.2-Punjab New Mandi Township dispensed with vide order dated 18.11.2014.

***

JASWANT SINGH, J.(ORAL)

Nagar Council, Patran-defendant no.1 is in second appeal directed against the judgment and decree dated 7.5.2013 passed by learned first Appellate Court/Additional District Judge, Patiala whereby the suit of the plaintiff-FCI has been decreed while setting aside the judgment and decree dated 4.10.2011 passed by Additional Civil Judge(Sr. Divn.), Samana dismissing the suit.

Brief facts are that FCI/plaintiff has constructed their godowns in Khasra Nos.56 & 57 situated in the Punjab New Mandi Township of Patran. The defendant-Nagar Council, Patran (appellant) raised a demand qua the outstanding house tax bill dated 14.09.2007 for an amount of

Rs.9,40,689/-. The FCI filed a suit for declaration that the said demand is illegal. The levy of house tax was exempted vide notification dated 26.5.1980 (Ex.P-4) issued under Section 17 of the New Mandi Township Act, 1960. It was claimed that the property in question had been purchased vide sale deed dated 22.06.2006 from The Punjab New Mandi Township, Chandigarh-defendant no.2 and the said Khasra Numbers were specifically covered under the Notification Ex.P-4 and thereby exempted from the payment of House Tax levied under Section 63 of the Punjab Municipal Act, 1911.

The learned trial Court dismissed the suit of the plaintiffs/FCI by holding that the plaintiffs had failed to prove that the constructed godowns were situated in the said Khasra Nos.56 & 57, which concededly did find mention in the exemption Notification Ex.P-4. In the appeal, however, the first Appellate Court on re-appreciation of the evidence has returned a finding in favour of the plaintiff-FCI.

After hearing learned Counsel for the parties and perusing the paper book with their able assistance, this Court finds that the present appeal is devoid of any merit and deserves to be dismissed.

It is not in dispute that the FCI had purchased and constructed their godowns on the land allotted by the Punjab Mandi Township. The plaintiffs have also produced on record the jamabandies Ex.PW-3/3 wherein Khasra Nos.56 & 57 have been shown as *Gair Mumkin.* The learned trial court has discarded this entry merely on the ground that it is not recorded that the godowns stands constructed, however, the learned first Appellate Court has rightly construed the said document in corroboration with the report of the Kanungo as Ex.CX on record that reveals that the godowns had been constructed by FCI at Khasra Nos.56 & 57 as claimed in the plaint. It is not in dispute that no objection to the report of the Kanungo was raised on behalf of the defendants-appellants. It is also not in dispute that the aforesaid Khasra Nos.56 & 57 are covered under the Exemption Notification Ex.P-4.

This Court finds that there is no irregularity much less illegality in the findings returned by the learned lower Appellate Court.

In view of the above, finding no merit in the present second appeal, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

October 23, 2017
Vinay

Whether speaking/reasoned	***Yes/No***
Whether Reportable	***Yes/No***