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

1. **RSA No.2239 of 2015 (O&M)**
Date of Decision: 26.09.2017

SahdevAppellant
Vs
State of Haryana and others ...Respondents

2. **RSA No.2914 of 2015 (O&M)**

Ram ChandAppellant
Vs
State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. P.S. Jammu, Advocate
for the appellant(s).

RAJ MOHAN SINGH, J. (Oral)

[1]. Vide this common order RSA Nos.2239 and 2914 of 2015 are being disposed of as common question of law and fact is involved in these appeals. For brevity facts are being culled out from RSA No.2239 of 2015.

[2]. Plaintiff is in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for declaration and permanent injunction.

[3]. Brief facts are that the order dated 12.06.2007 passed by the Collector, Surplus Area, Sirsa was assailed in the civil

suit vide which allotment letter dated 02.03.2004 in favour of the plaintiff/appellant in respect of 30 *Kanals* 18 *Marlas* of land was cancelled. The plaintiff sought to get the same declared as null and void in the aforesaid suit. Plaintiff claimed that he was tenant of one Sarwan. Land owner filed ejectment application against the plaintiff and the plaintiff was ordered to be ejected. Thereafter plaintiff sought to re-settle on the surplus land of the big land owner in the same *patwar* circle as per Haryana Utilization of Surplus and other Area Scheme, 1976. Being an ejected tenant, plaintiff filed an application for allotment of the land and he was allotted 30 *Kanals* 18 *Marlas* of land on 02.03.2004 and mutation No.3792 was sanctioned in favour of the plaintiff in respect of the said allotment. The order of allotment was set aside in review proceedings by the Collector, Surplus Area, Sirsa on 12.06.2007 on the ground that the order dated 02.03.2004 did not bear any signature of defendant No.3. Even defendant No.3 made request to the Collector for review of the said order. Feeling aggrieved against the aforesaid cancellation of allotment, the suit in question came to be filed by the plaintiff.

[4]. Learned counsel for the the appellant(s) submitted that the Collector was not competent to review the order of allotment as only the Financial Commissioner was competent to review

the order under Section 18(6) of the Haryana Ceiling on Land Holding Act.

[5]. Learned counsel further submitted that the plaintiff himself was the victim as the prescribed authority was found indulging in number of cases of fraud and no notice was issued to the plaintiff before reviewing the order in question.

[6]. I have heard learned counsel for the appellant(s).

[7]. Evidently, in view of facts on record, it is found to be a case of fraud committed at some level for which the concerned *Patwari* has already been dismissed. Signature of defendant No.3 were found to be forged. Mutation was cancelled and the original possession was restored.

[8]. In view of settled position of law in **S.P. Changalvaraya Naidu (dead) by LRs. vs. Jagannath (dead) by LRs., 1994 AIR (SC) 853; Hamza Haji vs. State of Kerala and another, 2006(7) SCC 416, A.V. Papayya Sastry and ors. vs. Government of A.P. and ors, 2007(2) RCR (Civil) 431 and Balwant Rai Tayal vs. M/s Subhash Oil Company, Hisar through Shri Raghunath Sahi, 2003(2) RCR (Rent) 148**, a party who played fraud has no equities in law and can be thrown at any stage of litigation.

[9]. In view of above and it is a settled principle of law that

fraud vitiates all solemn acts. Limitation starts from the stage, where the fraud is detected. The fraudulent party can be thrown out of the Court at any stage of litigation. Since the fraud has been detected in the allotment of government land and the concerned officials have already been proceeded against as per law, therefore, the jurisdiction exercised by the Courts below cannot be faulted with.

[10]. Consequently, no law point worth consideration is involved in the present appeals. The appeals are found to be totally bereft of merits, therefore, the same are dismissed.

September 26, 2017

(RAJ MOHAN SINGH)
JUDGE

Atik

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No