

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

RSA No.5622 of 2016(O&M)

Date of Order:18.07.2017

Gulzar Singh

..Appellant

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Paramjit Singh Jammu, Advocate,
for the appellant.

ANIL KSHETARPAL, J.

Plaintiff-appellant has filed the present regular second appeal against judgments and decrees passed by the trial Court as well as by the first appellate Court.

Plaintiff through the present suit has sought declaration to the effect that he is entitled to return of the acquired land, since it is lying unutilised. Plaintiff claims that his land was acquired in the year 1964 for the purpose of creating a Lake and Bandh on river Ghagar. Plaintiff further claims that the land measuring 35 kanals 15 marlas was returned on 06.04.1987 as the aforesaid land remained unutilised. Now the plaintiff claims that since his remaining land also remains unutilised, therefore, the aforesaid piece of land should also be returned to him.

Whereas in response, it is a stand of the defendants that on the application filed by the plaintiff, matter was enquired into and it was found

that the remaining land of the plaintiff is being used for placing the Gaad (silt). It was in that context the suit filed by the plaintiff was contested and opposed.

Learned trial court after appreciating the evidence available on the file, recorded findings that since the piece of land which the plaintiff is claiming through this suit, has already been used or is required to be used. Therefore, the plaintiff does not have any right to claim the land back. The first appellate Court also dismissed the Ist appeal filed by the appellant after appreciating the evidence available on the file. Both the courts below have appreciated the evidence available on the file and recorded concurrent finding of fact against the plaintiff.

I have heard counsel for the appellant and with the assistance gone through the paper book.

Learned counsel for the appellant has submitted that since the remaining land, originally owned by the appellant measuring 15 Kanals 8 Marlas, before its compulsory acquisition by the State, remains unutilised, therefore, the appellant has every right to claim back that land. He further submits that the judgments and decrees passed by the Courts below are erroneous and, therefore, liable to be set aside.

I have considered the arguments addressed by counsel for the appellant but I am unable to agree with the same. There is a basic fallacy in the argument of the learned counsel for the appellant. The plaintiff can file a suit to claim back the land only if he has some right under a contract, statute or otherwise. The piece of land owned by the appellant was acquired for public purpose. Title absolutely vested with the State on completion of acquisition proceedings. The Government, in the welfare of farmers,

decided to return unutilised land to the farmers. That decision would not give any right to the farmers to even claim back the land, which has been acquired and utilised. Both the courts below concurrently found that the remaining land belonging to the appellant measuring 15 kanals 8 marlas has been utilised. I do not find any error in the aforesaid findings. In these circumstances, there is no merit in the present appeal, therefore, the same is ordered to be dismissed.

July 18, 2017
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No