

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

**RSA 5144/2015 (O&M)
Date of decision:28.11.2017**

Teja Singh and another

.....Appellants

v.

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.RK Singla,Advocate for the appellants/plaintiffs

Jaswant Singh,J,(Oral).

Plaintiffs/appellants are in second appeal against concurrent findings returned by the Courts below whereby their suit for mandatory injunction directing the defendants/respondents to allot suit land, fully detailed in the head note of the plaint, with a further prayer for perpetual injunction restraining the respondents/defendants from dispossessing the plaintiffs from their possession, was dismissed by Civil Judge (Junior Division)Ludhiana vide judgment and decree dated 9.4.2014 and findings thereof affirmed in appeal by learned Additional District Judge, Ludhiana vide judgment and decree dated 31.3.2015.

Briefly noticed, plaintiffs filed the said suit with the averments that plaintiff no.2-Kanwaljit Kaur @ Kamaljit Kaur daughter of Rattan Singh was only legal heir of Rattan Singh who died on 19.5.1975 and after the death of Rattan Singh all his estate devolved upon her. It was further pleaded that plaintiff no.1 and Rattan Singh, predecessor-in-interest of plaintiff no.2 Kanwaljit Kaur @ Kamaljit Kaur, belonging to weaker

sections of the Society were put in possession of suit land at the instructions of Sh.Piare Lal Dhanbowalia, the then Revenue Minister in 1965 and since then plaintiff Teja Singh and Rattan Singh remained in actual physical possession of the land although in revenue record since 1967 Teja Singh and Rattan Singh were shown in cultivating possession of suit land whereas Provincial Government was shown as owner. It was further alleged that one similarly situated person namely Mohinder Singh was allotted land about 23 years back but no action was taken on the application of plaintiffs, made about five years back, despite their possession over the suit property being 37 years old which had so far remained continuous, peaceful and uninterrupted. It was alleged that defendant-State of Punjab, at the behest of some interested persons were out to dispossess the plaintiffs from the suit property.

Upon notice, defendants filed written statement alleging therein that the suit property was situated within the limit of Municipal Corporation, Ludhiana and same could not be allotted on the basis of alleged possession. It was further alleged that Provincial Government was owner of the suit property and it had taken possession of the same vide Rapat No.107 dated 31.10.2002. It was alleged that some unscrupulous land grabbers on the basis of wrong revenue entries were trying to grab acres of government land. The suit was termed to be false with a motive to grab government land.

Upon pleadings of the parties issues were framed. Both sides led evidence. The courts below on the basis of material adduced on record dismissed the suit of the plaintiffs, as noticed above. Hence the present appeal.

After hearing learned counsel for the appellants at length and with his able assistance perusing the paperbook carefully, this Court is of the considered view that the instant appeal is liable to be dismissed.

The Courts below while dismissing the suit of the plaintiffs have noticed that though PW1 Teja Singh in his examination in chief supported the case of the plaintiffs, but in his cross examination he stated that he had no proof of ownership regarding the suit property, situated within limits of Municipal Corporation, Ludhiana and that the same was owned by Punjab Government. It was also conceded by him that the suit property measured 80K-6M and was commercial property. With regard to testimony of PW2 Prem Lal, who in his examination in chief also supported the case of the plaintiffs, in his cross examination admitted that he was a Property Dealer for the last 20-22 years. From this it was rightly inferred that this witness, a Property Dealer, was deposing in favour of plaintiffs at the askance of latter. PW3 Gurtek Singh also admitted that the land belonged to Government. Further PW4 Parminder Singh son of plaintiff feigned ignorance about the fact that the Government has taken the possession of the land vide rapat no.107 dated 31.10.2002, thus impliedly admitting taking over possession of the suit property by the Government.

On the other hand, DW1 Inderjit Singh, Kanungo deposed that suit land was Banjar Gair Mumkin and plaintiffs were not in possession of the same. He further deposed that as per order of SDM Ludhiana the possession of the suit land had been taken from illegal encroachers. He also deposed that as per Government notification dated 13.11.1995 Village Kuliwawal was declared as urban area and further vide letter dated 23.8.2001 issued by the State Government the suit land could not be

transferred on the basis of possession.

In view of the above, in my considered opinion, no question of law much less substantial question of law arises for consideration in this appeal.

Dismissed.

28.11.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No