

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Regular Second Appeal No.3391 of 2017 (O&M)
Reserved on 4th July, 2017
Pronounced on 19th July, 2017

Mani Ram

..Appellant

versus

State of Punjab and others

..Respondents

and

Regular Second Appeal No.3411 of 2017

Harnam Singh (since deceased) represented by his LR.

..Appellant

versus

Amritsar Improvement Trust, Ranjit Avenue, Amritsar & others.

..Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN.

Present: Mr. Prateek Sodhi, Advocate, for the appellant

RAMENDRA JAIN, J.

CM No.8181-C in RSA No.3391 of 2017

Allowed, as prayed for.

CM No.8213-C in RSA No.3411 of 2017

Allowed, as prayed for.

RSA Nos. 3391 and 3411 of 2017

By this common judgment, I shall dispose of two Regular
Second Appeals bearing Nos.3391 and 3411 of 2017 as the questions of
fact and law involved therein are identical in nature. However, for the sake
of convenience, facts are being extracted from Regular Second Appeal

No.3391 of 2017.

RSA NO.3391 of 2017

The appellant-plaintiff filed a suit for mandatory injunction to direct respondent nos. 1 to 4 to allot him plot/residential House No.B-600 and also for permanent injunction to restrain the respondents from dispossessing him from the said residential house.

Learned counsel for the appellants has contended that both the learned courts below have committed a grave error in holding that the plots were allotted only on the basis of 'draw of lots' and not on the basis of 'seniority', keeping in view of rule 8 (1) of the Punjab Town Improvement (Utilization of Land and Allotment of Plots) Rules, 1983 (hereinafter referred to as "the Rules 1983). The learned courts below lost sight of the fact that the respondent-Improvement Trust, while ignoring the claim of the appellant, allotted the plots under 2% reserved quota, to the persons, who were junior to the appellant. The learned courts below have erred in not considering resolution no.291 dated 30.10.1979, Ex.P6, on the ground that the same was not applicable to the appellants, after the 1983 Rules came into force.

I have heard learned counsel for the appellants and gone through the impugned judgments passed by both the learned courts below carefully.

It is an admitted fact that the appellant was an employee of respondent no.4 and he retired from service after attaining superannuation on 31.3.2004. The State of Punjab framed the 1983 Rules, published vide Punjab Government notification no. GSR.99/PAA/22/S-73/83 dated 22.12.1983 for the purpose of allotment of multi-storeyed houses and plots

to the general public and the employees of respondent no.4. In the year 1983-84, respondent no.4 carved out some plots in the area of Ranjit Avenue to be allotted to the public and 2% of the said plots were to be allotted to its employees. According to the appellant, as per quota, only 9 plots of 150 square yards each, were to be allotted to the employees as per their respective seniority maintained by the office of respondent no.4. Out of 2% quota under the 1983 Rules, the name of the appellant was figured at serial no.6 in the list prepared, whereas the official, namely, Om Parkash, Peon, who was junior to him, and was placed at serial no.7, was allotted the plot ignoring his claim, thereby violating the statutory rules for not allotting the plot to him, though he was eligible for the same. A resolution no.291 dated 30.10.1979 was passed for allotment of 15 plots to the employees of respondent no.4 and the name of the appellant existed at serial no.15 for the allotment of plot no. 367 measuring 100 yards but the same was not allotted to him. According to the appellant, respondent no.4 prepared a second list to allot residential houses/plots 13 in number to its employees under 2% quota of the 1983 Rules. These plots were allotted to respondent nos. 5 to 17, who were junior to him, ignoring his rightful claim. For the allotment of the plots under the new scheme floated by the respondent-State, the appellant deposited Rs.10,000/- as earnest money vide receipt no.58105 dated 26.6.2001, but, out of 2% reserved quota, he was not allotted any plot in his favour. Respondent no.4 passed a resolution no.492 dated 19.4.1993, whereby, quarter no. B-600 was allotted to the appellant vide letter no.1732 dated 25.6.1993 on rent, specifically mentioning therein that with the sanction of the State government, the said residential house will be sold to him under the rules.

In the written statement filed by respondent nos. 4 and 5 to 17, it has been specifically pleaded that they had applied for the allotment of the plot from the reserved quota of the employees to the extent of 2% and they were rightly allotted the plots on the basis of draw of lots and not on the basis of seniority. Rests of the averments made in the plaint were denied by the respondents.

It is worth mentioning that similar controversy is involved in R.S.A. No.3411 of 2017, which was filed by appellant Harnam Singh (since deceased represented by his legal heirs). Appellant Harnam Singh was also an employee of the Improvement Trust, Amritsar, who joined the Improvement Trust as peon on 03.09.1969 and retired from service on 28.2.2007. He was allotted residential quarter no.B-601 on rent basis by the respondent-Improvement Trust, way back in the year 1983-84. Rests of the averments made in R.S.A. No. 3391 of 2017 are identical in nature.

In both these appeals, the whole controversy with respect to criteria fixed for allotment of the plots to the general public as also the employees of the Improvement Trust, Amritsar is enshrined in Rule 8 sub clause (1) of the Punjab Improvement Trust (Utilisation of Land and allotment of Plots) Rules 1983. For facility of reference, the relevant clause thereof reads as follows:-

“ Rule 8 sub clause (1):- Unless otherwise provided under these rules every Trust shall allot **residential plots** and multi-storeyed houses by “**draw of lots**” and shall sell the commercial plots by auction.”

In view of the provisions of the 1983 Rules, it is abundantly clear that plots have to be allotted on the basis of “draw of lots”. Therefore,

the contention of the learned counsel for the appellant Mani Ram that he was eligible for the plot reserved for the employees “on the basis of seniority” is not tenable, inasmuch as he has not been able to produce on record any oral as well as documentary evidence in support of his case. That apart, the appellant has not been able to show any rules or provisions of law, which could make him eligible for allotment of reserved plots for the employees on the basis of seniority. The seniority list of the employees prepared by the respondent- Improvement Trust was not for the purpose of providing them plots on the basis of seniority, inasmuch as it does not find mention that the same was prepared for the allotment of plots on the basis of seniority. Rather, it is apparent from Rule 8 sub clause (1) of the 1983 Rules, that the criteria fixed for allotment of plots was on the basis of “draw of lots”. Both the learned courts below, in my considered opinion, have rightly held that the allotment of plots was on the basis of “draw of lots and not on the basis of seniority. However, the seniority list Ex.P45 produced and proved by the appellant-plaintiff Mani Ram before the learned trial court, was not supported by any material evidence and as such, does not make him eligible for allotment of a plot. That apart, the seniority list does not find mention as to for what purpose the same was produced on the record of the trial court and therefore, the learned trial court has rightly not taken note of it.

The appellants Mani Ram and Harnam Singh (since deceased) were allotted Quarter bearing nos. B-600 and B-601, respectively, to reside therein. Now, they have retired from service. Therefore, the appellants have no legal right to retain the possession of the said quarters after attaining superannuation, especially when the residential houses were

allotted by the the Improvement Trust to its employees solely for the purpose of residing therein during service. Thus, the appellants are not entitled for any relief as prayed for. The contention of the learned counsel for the appellants that the respondent-Improvement Trust had mentioned in the allotment letter that the request of the appellants would be considered for the sale of residential houses afterwards, has no legs to stand, inasmuch as the respondent-Improvement did not make any provision in the rules that the residential houses allotted to its employees to live in, would be sold to them at reasonable prices. However, proposal for the same were made, but eventually, did not reach at its logical end. Both the appellants have placed reliance upon resolution no.291 dated 30.10.1979, Ex.P6, which in the considered opinion of this court, is of no consequence as the same was not applicable after the 1983 Rules came into operation. Even the claim of the appellant Mani Ram that he had deposited Rs.10,000/- as earnest money cannot be accepted, because the plots were to be allotted to its employees by the respondent-Improvement Trust on the basis of draw of lots. Mere depositing of the earnest money by the said appellant with the respondent/Improvement Trust cannot make him eligible for allotment of a plot, unless he is declared successful in draw of lots. More so, it was the bounded duty of the appellants to hand over the vacant possession of their respective residential houses after their retirement to the respondent/Improvement Trust so as to allot the same further to the employees who are waiting for their turn. Instead, the appellants resorted to filing litigation against the respondent-Trust. Right from the very beginning, the stand of the respondents-Improvement has been that plots were allotted on the basis of draw of lots and not on the basis of seniority.

Learned counsel for the appellants has not been able to raise any law point, much less substantial in both the instant Regular Second Appeals for adjudication of this court.

In view of the above discussion, I do not find any impropriety or irregularity in the concurrent findings on the question of fact and law recorded by both the learned courts below that may warrant inference by this court. Both Regular Second Appeals, bearing nos. 3391 and 3491 of 2017, being without any merit, fail and are hereby dismissed.

Registry is directed to bring this order to the notice of the respondents.

19th July, 2017
VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether Reportable: | Yes/No |