

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

RSA No.1403 of 1994 (O&M)

Date of Decision: February 28, 2018

State of Punjab and others

...Petitioners

Versus

Mrs. Reshma Devi and another

..Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. B.S. Sewak, Addl. A.G. Punjab
for the appellant/State.

Mr. Rajinder Singla, Advocate
for Mr. Hem Raj, Advocate
for respondent No.1.

Respondent No.2-Died.

FATEH DEEP SINGH, J.

Initially one Reshma Devi-plaintiff now contesting respondent had filed suit for declaration and permanent injunction against the State of Punjab and others. The precise subject matter of dispute was to the effect: defendant Parkash Chand was owner in possession of land to the extent of 1/5 share in 429 Bighas and 4 Biswas duly detailed and depicted in the suit situated in village Bhikhi. Through registered sale deed dated 5.4.1969 the owner Parkash Chand sold his share for valuable consideration of this land in favour of plaintiff-Reshma regarding which mutation No.7940 too was sanctioned on 19.02.1969. After consolidation the land in lieu of this land was allotted to plaintiff. It is subsequently thereto E.T.O. Sangrur issued memo No.4071 dated 14.11.1975 directing the Revenue Officer to attach this land on account of dues of sum of Rs.1,80,000/- and

Rs.65,475/- which Parkash Chand owed towards the department for a liquor vend in respect of year 1968-69. The suit was contested by defendant on the grounds that recovery of public dues was to be made as arrears of land revenue and, thus, right of the department to recover the same. In replication the same was refuted. On the basis of pleadings learned trial Court framed the following issues:-

1. Whether plaintiff is the owner in possession of the land in dispute? OPP
2. Whether the entry regarding the attachment of and in dispute as per order dated 14.11.1975 is null and void and ineffective qua the rights of the plaintiff?OPP
3. Whether the plaintiff is entitled to injunction as prayed for?OPP
4. Whether the civil court at Mansa has no jurisdiction to try the present suit?OPD
5. Whether suit is not maintainable in the present form?OPD
6. Whether the suit has been filed by the plaintiff in collusion of defendant No.4 if so its effect? OPD
7. Whether suit is within limitation? OPP
8. Relief

Upon evidence the Court of learned Sub Judge, Ist Class, Mansa through judgment dated 11.10.1990 decreed the suit. Upon appeal by the State, findings of the trial Court were upheld by the learned Additional District Judge Bathinda and appeal stood dismissed.

Heard, learned counsel for the parties and perused the records of the case. The only short point that is revolved in this matter whether the appellant-State is well within its right to order recovery of amount in question through attachment of property of plaintiff-Reshma to recover dues as arrears of land revenue. As is there and is so, Parkash Chand has sold his 1/5th share of the property through registered sale deed way back on 5.4.1969. The recovery memo has been issued on 14.11.1975 much

after the alienation which has taken place way back on 05.04.1969. Learned counsel for appellant/State could not convince how the property of the plaintiff could be ordered to be attached when Parkash Chand at the time of this recovery of the dues was not the owner of this land nor the same has been given as surety/bond to the defendant/department in lieu of which he has carried on his business. To the very specific query of this Court, under what provisions the appellant/State is trying to make this coercive recovery, learned counsel for appellant/State was clearly at loss of words. Rather it appears to this Court that being a Instrumentality of the State the defendant/department is trying to use arm- twisting tactics on a third party to compel recovery of the amount in question to which they are not entitled. Since Parkash Chand has ceased to be the owner at the relevant point of time, thus, this land does not belongs to him and no recovery can be effected from the suit property.

The two Courts below had rightly come to the conclusion drawn by them and there is no illegality or perversity in these consistent findings of the two Courts below. The appeal being hopelessly without any merits stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 28, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No