

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

RSA No.4455 of 2010 (O&M)

Date of decision : 27.02.2018

Manglu Ram and another

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Kumar, Advocate for the appellants.

Mr. Saurabh Girdhar, AAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants are in the Regular Second Appeal against the judgment passed by the Court below.

The plaintiffs filed a suit for permanent injunction restraining the defendants from illegally and forcibly demolishing/dismantling the residential house constructed on the suit property. The plaintiffs also prayed for relief of mandatory injunction directing the State Government to execute the conveyance deed in favour of the plaintiffs.

The plaintiffs claim that they were tenants over the land in dispute and under a policy, Nazool Land Settlement Committee has fixed the price and asked the plaintiffs to deposit 1/4th of the price so arrived at, which was deposited.

On the other hand, State Government contested the suit and

pleaded that Nazool Land Settlement Committee never offer to sell the property or took a decision to sell the property while determining the price.

Both the Courts below have arrived at a finding that the plaintiffs apart from producing on record the certain receipts showing the payment of the lease money as well as some additional amount, has not produced any decision of the Nazool Land Settlement Committee offering to sell the property in dispute or determining the price. However, the learned trial Court keeping in view the fact that the plaintiffs have constructed their house, granted only a decree for permanent injunction restraining the defendants from dispossessing the plaintiffs from the house in question, except in due course of law.

Learned First Appellate Court while considering the appeal filed by the State of Haryana and cross-objections filed by the plaintiffs, accepted the appeal filed by the State of Haryana and dismissed the cross-objections filed by the plaintiffs. Learned First Appellate Court on re-appreciation of the evidence has recorded a finding that the plaintiffs are not even proved to be tenants over the property. The Court has further recorded a finding that no decision of the Nazool Land Settlement Committee has been proved permitting the sale of the property in dispute to the plaintiffs.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the record.

It is not in dispute that neither the decision of the Nazool Land Settlement Committee has been produced on file nor any allotment letter in favour of the plaintiffs-appellants has been produced. Deposit of certain amount in the Government account would not cloath the plaintiffs with a

right to purchase the property. It is to be decided by the State Government whether it wants to sell the property in dispute or not.

However, during the course of arguments, Official namely Sh. Digvijay Singh, Revenue Patwari, Sirsa, who has come to assist the learned counsel for the State of Haryana admits that there is a residential house existing at the spot constructed by the plaintiffs. Such being the position, the present appeal is allowed only to the limited extent. The respondent-State of Haryana would not dispossess the plaintiffs or demolish their construction except in due course of law.

With these observations, the Regular Second Appeal is disposed of.

27.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No