

RSA No.2377 of 2016 (O&M)

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

RSA No.2377 of 2016 (O&M)
Date of decision: 15.01.2018

Kewal Krishan

.....Appellant

versus

Haryana Urban Development Authority and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. R.S. Modi, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

In this Regular Second Appeal challenge has been laid to the judgment and decree dated 01.04.2016 of the First Appellate Court affirming the judgment and decree dated 02.01.2015 of the trial Court dismissing the suit of the appellant-plaintiff for declaration.

Put pithily, the appellant-plaintiff has purchased 7 marlas of land (in short the 'suit land') vide two separate sale deeds dated 14.12.1983 (Annexures A-1 and A-2). The suit land as well as the other land surrounding it was acquired by the State of Haryana vide notifications under Sections 4 and 6 of the Land Acquisition Act (in short the 'Act') dated 15.12.1982 and 23.02.1985, respectively and award dated 15.08.1987. Consequently, few landowners claiming themselves to be members of some Gandhi Dham Society, who had purchased small plots in the acquired land,

filed CWP No.3707 in the year 1991 before this Court, which was allowed

RSA No.2377 of 2016 (O&M)

vide order dated 07.07.2010 (Annexure A-3) directing the respondent-State to allot 5 marla plots to each of the petitioner in the said writ petition. Appellant-plaintiff also, claiming the same relief, filed an application in the said writ petition to implead him as a party, which was ordered to be heard along with the main case vide order dated 15.09.2004. However, while allowing the aforesaid writ petition vide order dated 07.07.2010, the application of the appellant-plaintiff inadvertently remained undecided. Therefore, appellant moved CM No.2025 of 2011 to pass an order to implead him as a party in aforesaid CWP No.3707 of 1991, which was dismissed vide order dated 01.04.2011 on the ground that the stage, at which the appellant could have been impleaded as a party had already vanished on final disposal of CWP N.3707 of 1991. Resultantly, appellant filed independent CWP No.11480 of 2011, which too resulted into dismissal vide order dated 23.01.2012.

Being aggrieved, appellant approached the Hon'ble Supreme Court by way of SLP No.10966 of 2012, but remained unsuccessful as the same was also dismissed.

Thereafter, appellant-plaintiff filed a suit for declaration to the effect that he was entitled to 5 marlas of plot as per judgment dated 07.07.2010 of this Court passed in CWP No.3707 of 1991, to treat his case at par with the other similarly situated landowners, whose small portions of land were acquired and ordered to be allotted 5 marlas of plots.

The trial Court as well as the First Appellate Court vide aforesaid judgments non-suited the appellant-plaintiff observing that as a matter of fact, the appellant had purchased the litigation after acquisition of his land with the hope that he would be able to manipulate the state apparatus and

RSA No.2377 of 2016 (O&M)

secure release of his acquired land.

Learned counsel for the appellant contends that findings of both the Courts below that case of the appellant cannot be treated at par with the member of the society namely, Gandhi Dham Society are illegal and wrong because the said society was not a registered society and CWP No.3707 of 1991 was filed by landowners in their individual capacity illegally giving it a colour of society. Findings of both the Courts that since the appellant had purchased the property after issuance of notification under Section 4 of the Act to get allotment of plot from the Haryana Urban Development Authority by manipulating the State machinery are wrong because other landowners, who were petitioners in CWP No.3707 of 1991, had also purchased their plots much after the issuance of notification under Section 4 of the Act. Therefore, the case of the appellant ought to have been treated on the same party by both the Courts below.

Having given anxious consideration to the submissions made by learned counsel for the appellant, I find the instant appeal completely devoid of any merit for the reasons to follow.

The appellant initially exhausted his remedy before this Court by way of CWP No.11480 of 2011, but remained unsuccessful. Thereafter, he knocked the door of the Hon'ble Supreme Court by way of SLP No.10966 of 2012, which too was dismissed on 13.04.2012.

The case of the appellant-plaintiff has rightly not been treated at par with petitioners in CWP No.3707 of 1991 by both the Courts below inasmuch as some of them had already constructed their houses on the acquired land before the decision of the aforesaid CWP, whereas the appellant had not raised any construction over his plot.

RSA No.2377 of 2016 (O&M)

More-so, the petitioners in CWP No.3707 of 1991 were the residents of Panipat, whereas the appellant is the resident of a far away place i.e. Jalandhar (Punjab). The appellant must had purchased the plot in question for profitering purposes after acquisition of land with intention to manipulate the Government machinery for allotment of alternative plot by Haryana Urban Development Authority. Therefore, the case of the appellant-plaintiff, who is the resident of a far away place cannot be equated or treated at par with the local residents of Panipat, who were petitioners in CWP No.3707 of 1991.

It is pertinent to mention here that this is the fifth round of litigation before this Court by the appellant resulting into wastage of precious time of this Court earlier in the year 2011, then of the Hon'ble Apex Court, trial Court and the First Appellate Court. It is simply a luxury litigation pursued by the appellant to get some undue benefit for getting allotment of a plot by way of illegal means under the garb of some Court order, so as to sell the same in black marketing or on premium inasmuch as the appellant would never settle at Panipat in his advanced age, being a permanent resident of Jalandhar in Punjab.

There are concurrent findings against the appellant of both the Courts below. I have gone through the impugned judgments of both the Courts below and find no illegality or perversity in the same. More-so no question of law muchless substantial has been raised or arises for consideration in this appeal.

Resultantly, this appeal being devoid of any merit, is hereby dismissed with costs of ₹ 20,000/- to be deposited with the District Legal

Services Authority, Jalandhar.

RSA No.2377 of 2016 (O&M)

Copy of this order be sent to the Member Secretary, District Legal Services Authority, Jalandhar, for recovery of aforesaid costs from the appellant.

January 15, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.