

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

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**RSA-3105-2015 (O&M)
Date of Decision : 18.04.2018**

Vinod Kumar and others

..... Appellants

Versus

U.T. Chandigarh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Anupam Gupta, Sr. Advocate
with Mr. Ashok Kumar, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower appellate court allowing an appeal filed by the respondents against the decree passed by the trial court.

The appellants filed a suit for declaration and mandatory injunction. The declaration they sought was that the site of SCF No.25, Sector 11, Chandigarh was owned by their father and the mandatory injunction which they sought was to direct the respondents to transfer the site in the favour of the legatees of a Will executed by their father. The case of the respondents on the other hand was that the site had never been allotted to the father of the appellants. In the plaint no details were mentioned as to when the site was allotted to the father of the appellants nor any details were mentioned as to whether it was allotted by auction or by which manner. Even the date or number of the allotment letter or the details

of any payment which may had been made by the father of the appellants

was conspicuous by its absence. The only document which has been placed on record was a letter issued by the Estate Officer in which the Estate Officer had mentioned that the appellants had applied for transfer of the site in lieu of the Will and had directed the appellants to submit certain documents like affidavits etc. so that their case could be further processed.

The main argument raised by learned Senior Counsel for the appellants is that if there had been no allotment in favour of the respondents the Estate Officer would have refused to entertain the transfer application and has further drawn attention to what he claims to be inexplicable loopholes in the testimony of the respondents-defendants' witness to contend that the circumstances do reveal that the property was in fact allotted to the father of the appellants.

In my opinion, the argument of the learned Senior Counsel for the appellants cannot be accepted. It is trite to say that it was for the appellants-plaintiffs to have established their claim that the property was ever allotted to their father. In the absence of any details or any document of title, the letter written by the Estate Officer cannot be taken to be a proof of title. The lack of knowledge of an official clerk who appears as respondents-defendants' witness can not bolster the case of the appellants-plaintiffs. In the absence of any details about allotment/conveyance (leave alone any document), I do not deem it appropriate to reach the conclusion that the property was owned by the father of the appellants.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

April 18, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No