

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

RSA No.5316 of 2016 (O&M)

Date of decision : 11.05.2018

Satinder Pal Singh

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S. Gurna, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.13804-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 109 days in refiling the appeal is condoned.

Application is allowed.

Main Case

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit for grant of permanent injunction. It is admitted fact that the plaintiff-appellant does not have any right, title or interest in the property.

The plaintiff's case is that he was allotted land measuring 80 kanals and 6 marlas in the year 1974 out of which land measuring 45 kanals

and 11 marlas were permanently allotted to him by the Collector and with regard to remaining land, he continues to be in possession.

On the other hand, it is the stand of State of Punjab that the allotment of land in favour of predecessor of the plaintiff was conditional with a stipulation that he will develop the land which was barren within the stipulated time and the predecessor of the plaintiff developed only land measuring 45 kanals and 11 marlas which was permanently allotted to the predecessor of the plaintiff and, therefore, remaining land vested back with the Government. It was further pleaded that thereafter the land is in possession of the Government situated within the Municipal limits.

Only argument of the learned counsel is that the plaintiff has continued in possession of the property. It is not in dispute that the plaintiff could not fulfill the stipulation as imposed while making a temporary allotment and he felt satisfied only with the land measuring 45 kanals and 11 marlas. No effort was made by the plaintiff to secure the allotment of the remaining land. The plaintiff never paid any amount with regard to the aforesaid land. The plaintiff, therefore, is not having any right, title or interest in the property. The plaintiff only claims that he is in unauthorized settled possession of the property.

In the considered opinion of this Court, the injunction prayed for by the plaintiff cannot be granted as no injunction can be granted against true owner particularly in favour of an unauthorized occupant. Still further, it is well settled that in respect of vacant land, possession follows title.

In view of the above, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the Courts

below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

11.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No