

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

**RSA No.3885 of 2014(O&M)
Date of Order: 05.02.2018**

DHARMA

..Appellant

Versus

STATE OF PUNJAB & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Rupinder Kaur Thind, Advocate,
for the appellant.

None for the State of Punjab

Mr. Kanwal Goyal, Advocate, for
Mr. Amarjit Markan, Advocate,
for respondent nos.4 and 5.

ANIL KSHETARPAL, J (Oral)

Plaintiff-appellant is in regular second appeal against the concurrent findings of fact arrived at by the courts below, partly decreeing the suit.

Plaintiff had filed a suit claiming that Mela Ram was allotted land measuring 29 kanals 3 marlas comprised in Khasra no.22/min/2-16, 23/8-0, 588/min/5-0, 589/8-0 and 590/min/5-7. It was further the case of the plaintiff that Mela Ram died and property devolved upon Fattu and after Fattu, the property had devolved upon appellant-Dharma. Defendants no.1 to 3-State of Punjab admitted the allotment of land to Mela Ram but submitted that the land comprised in Khasra nos.589 and 590 was allotted to Bhagi Ram and Madho Ram.

Learned trial court after appreciating the evidence available on the file, partly decreed the suit filed by the plaintiff and directed the Collector, Kapurthala, is as under:-

“23. Keeping in view my findings on the above issues the suit of the plaintiff is hereby partly decreed to the effect that he is at liberty to approach the Collector, Kapurthala, who shall consider his claim over land comprised in khasras no.22/min/2-16, 23/8-0, 588/min/5-0 situated in Village Dhak Balalon, Tehsil Phagwara, District Kapurthala, originally allotted to Mela Ram s/o Miya and shall pass a speaking order thereupon. Copy of this judgment be also sent to Collector, Kapurthala, for necessary action. However, the rest of the relief claimed by the plaintiff stands dismsised. Parties are left to bear their own costs. Decree sheet be prepared. File be consigned.”

Plaintiff filed the first appeal. Learned first appellate court after re-appreciating the evidence available on the file, dismissed the appeal and upheld the judgment passed by the learned trial court.

Learned counsel for the appellant has vehemently argued that once the allotment of 29 kanals 3 marlas Nazool land is admitted by the State of Punjab in favour of his client, therefore, it is obligatory for the State of Punjab to complete the land measuring 29 kanals 3 marlas.

On the other hand, learned counsel for the respondents has submitted that their clients have been allotted land which include the land comprised in khasra numbers 589 and 590. Sale Certificates have been

issued in favour of their clients and they are in possession thereof.

Taking into consideration the controversy involved, the learned trial court has rightly granted liberty to the plaintiff to approach the Collector, Kapurthala for completing the allotment.

Since, there is a concurrent findings of fact that the land comprised in khasra nos. 589 and 590 were allotted to Bhagi, predecessor in interest of defendant no.4 and Ratta Ram, defendant no.5, therefore, there is no scope for interference by this Court in second appeal.

However, State of Punjab particularly the Collector, Kapurthala, shall ensure compliance of order passed by the learned trial Court within a period of 3 months from the date of receipt of the certified copy of this order.

The regular second appeal is dismissed.

February 05, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No