

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

RSA No.6207 of 2017
Date of decision: 28.08.2018

Tota Ram .. Appellant
vs.
Haryana Urban Development Authority, Faridabad .. Respondent

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Keshav Pratap Singh, Advocate for the appellant.

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Harinder Singh Sidhu, J.

This Regular Second Appeal has been filed by the plaintiff-appellant impugning the judgment of the Courts below whereby the suit of the plaintiff for permanent injunction for restraining the defendant-Haryana Urban Development Authority from interfering into his peaceful possession and enjoyment over the suit property and dispossessing him from the property has been dismissed.

The case of the plaintiff is that he is owner in possession for the last more than 50 years of an ancestral residential house consisting of four rooms triple storey, verandah, kitchen and stairs shown in red colour in the site plan in the plaint, which is situated in Harijan Basti, within Lal Dora Abadi of Village Daultabad, Tehsil and District Faridabad. The plaintiff has been in possession of this property since the time of his forefathers. He has obtained electricity connection, water sewerage connection and gas connection in the suit property and was also paying the house tax in regard thereto. The defendant had issued a show cause notice dated 14.02.2012 calling upon the plaintiff to produce the proof of ownership/title of the suit property. The plaintiff had filed the reply to the said notice. However, finding the reply to be not satisfactory, the defendant ordered the eviction of the plaintiff from the said property.

The case of the defendant was that the land in question had been acquired by the Land Acquisition Collector vide Award No.2 dated 05.07.1969 for the planned development of Sector 16-A, Faridabad and ownership thereof had been transferred in the name of HUDA, Since then, the defendant-HUDA was owner of the acquired land. It was also contended that in view of the provisions of Section 50(2) of the Haryana Urban Development Authority Act, 1977 the Civil Court had no jurisdiction to entertain the suit. It was also pleaded that the plaintiff had encroached upon the land, which was reserved for road/dispensary and due to such encroachment, the area could not be developed. It was further the case of the defendant that a list of encroachers of the acquired land had been prepared after physical verification by the officials of the defendant. Notices were issued to them under Section 18 of the HUDA Act. As no satisfactory reply in support of ownership had been furnished by them including the defendant, their eviction was rightly ordered.

Learned Trial Court held that the plaintiff had not been able to lead any evidence to substantiate his claim over the suit property. It was held that ownership could not be proved on the basis of ration card, gas connection and electricity connection. Even the identity of the house had not been disclosed. As the ownership and possession of the plaintiff had not been established, the suit was dismissed.

Learned Lower Appellate Court while dismissing the appeal of the plaintiff also held that jurisdiction of Civil Court was barred under Section 50 (2) of the HUDA Act. It was further held that vide award No.2 of 1969-70 dated 05.07.1969, a chunk of land situated in revenue estate of village Daultabad had been acquired by the State of Haryana for planned

development of Sector 16-A. Copy of the award depicted the boundaries of the acquired land, as under:

“North: Road leading to Faridabad Old near Bus Stand.

East: Boundary of Sector 16, Faridabad.

South: Pucca road leading to Old Faridabad from G.T. Road
(Near Nehru College).

West: G.T. Road (Delhi- Mathura Road).”

The land claimed by the plaintiff clearly fell within the boundaries of the acquired land. Further as per Rapat Roznamcha (Ex. D-1), the possession of the acquired land had been taken. Khasra No.6/9/2 formed a part of the acquired land over which the plaintiff had encroached.

Accordingly, it was held that the Ld. trial Court rightly dismissed the suit. The plaintiff was not entitled to injunction as prayer for.

Learned counsel for the appellant has not been able to establish as to how the findings of the courts below on the issue of jurisdiction of the Civil Court, and the fact that the land stood acquired and that there was not evidence of the ownership of the plaintiff, are wrong and against the facts on record.

There is no merit in the appeal and the same is dismissed.

(Harinder Singh Sidhu)
Judge

28.08.2018
Atul

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No