IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.6345 of 2017 (O&M)
Date of Decision.28.11.2018

Tehal Singh ...Appellant

Vs

The Chandigarh Administration and another ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Karan Vir Nanda, Advocate for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.16504-C of 017

For the reasons stated in the application, delay of 79 days in re-filing of the appeal is condoned.

Application is allowed.

RSA No.6345 of 2017

The present regular second appeal is directed against the concurrent finding of fact whereby the suit of the respondent-plaintiff claiming injunction against the defendants from re-auctioning the plot bearing No.55-56, Sector 44-C, Chandigarh by declaring him to be owner being successful bidder in the auction held on 26.02.1991 and possession after payment of 25% of the bid amount, by further challenging the order dated 22.05.2000 passed by defendant No.1 to be void, illegal and further prayer of mandatory injunction for issuance of allotment letter.

It was alleged that the aforementioned plot was put to auction on 26.02.1991. Plaintiff-Tehal Singh offered highest bid of ₹26.90 lakhs in the name of A.B. Financier Private Limited and paid a sum of ₹2.69 lakhs on the spot being 10% of the bid money vide receipt No.526 dated 26.2.1991. The remaining amount of Rs.15% was to be paid within one month of the auction which was allegedly paid on 27.03.1991. The terms of the bid also indicated that name of the company was to be disclosed after the bid was closed and proof of receipt of 10% of the bid amount. The condition of the bid also prescribed non addition of any purchaser after the issuance of the allotment/acceptance of the bid. In other words, no alteration in the name of purchaser was permitted. When no intimation was given by the Estate Officer after receipt of the 15% amount, on inspection of the record of the Estate Officer, it was found that plaintiff was communicated a letter dated 22.4.1991 to intimate names of other Directors of M/s A.B. Financier Pvt. Ltd. with a caveat that in case names were not provided, allotment letter would be issued in the name already given at the time of the bid money but the said letter was never received by the plaintiff. The department issued allotment letter in favour of M/s A.B. Marketing Private Limited, which had resemblance to large extent with the name of M/s A.B. Financier Pvt. Ltd. The allotment in favour of M/s A.B. Marketing Private Ltd. on 18.12.1991 was basically manipulated by one Sh. K.C. Arora. The possession was alleged to have been given in the month of January, 1992. The plaintiff acquired knowledge that the defendants had cancelled the auction in favour of the M/s A.B. Marketing Pvt. Ltd. on 20.08.1995.

The defendants opposed the suit by challenging the locus standi of the plaintiff and supported the cancellation of the bid. It was also asserted that premises were sealed in pursuance of criminal proceedings. Maintainability of the suit on the ground of limitation, as the suit was filed after 10 years, was also raised. It was alleged that letter dated 27.03.1991 whereby 15% of the premium was paid by M/s A.B. Marketing Pvt. Ltd. was also signed by the plaintiff on behalf of M/s A.B. Marketing Pvt. Ltd and therefore, he could seek allotment in individual name or in the name of M/s A.B. Financier Pvt. Ltd.

Mr. Karan Vir Nanda, learned counsel appearing on behalf of the appellant submitted that both the Courts below committed illegality and perversity in dismissing the suit, as the plaintiff had allegedly been made a scapegoat over the wrong of the offices. Sanction letter revealed that staff of the respondents unlawfully and in active connivance with Mr. K.C. Arora had issued allotment letter in favour of M/s A.B. Marketing Pvt. Ltd. After thorough investigation it was revealed that K.C. Arora and his wife Neelam Arora cheated the department. Both the courts below also lost sight of the fact that names of Directors of M/s A.B. Financier Pvt. Ltd. were yet to be constituted and did not have Directors at the time when the bid was made. Registration of FIR against the appellant was meaningless. The trial Court has committed illegality and perversity in holding that the appellant induced the Estate Officer to allot him a particular site by making a bid knowingly that M/s A.B. Financier Pvt. Ltd. was not in existence.

I am afraid aforementioned arguments of Mr. Nanda are not sustainable, for, on a specific query raised during the course of hearing, it is apprised that Tehal Singh had 20% share and the firm M/s A.B. Marketing Pvt. Ltd. along with K.C. Arora and Neelam Arora had 60% and 20% respective shares. It appears to be a private dispute amongst the aforementioned share holders but chose to file suit by coining a story. It is unbelievable that the cancellation letter dated 20.08.1995 sent by registered post was not received. In filing of suit after lapse of 10 years, cause of action cannot be said to be recurring. The suit was actuated out of malice intent to over come acquiescence.

As an upshot of my finding, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 28, 2018
Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No