

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 590 of 2018(O&M)

Date of Decision: 20.4.2018

Mahinder

---Appellant

versus

Gram Panchayat Mandora and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. A.S.Sheoran, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit filed by the appellant/plaintiff seeking mandatory injunction directing the defendants to execute the sale deed in favour of the plaintiff in respect of suit land measuring 7 kanal 19 marlas situated in village Mandora, Tehsil and District, Sonapat was dismissed by trial court vide judgment and decree dated 27.3.2015. The appeal preferred by the appellant remained unsuccessful as the Additional District Judge, Sonapat affirmed findings of the trial court without any variance.

On 29.1.2018, following order was passed by this court:-

“The present appeal directs challenge against consistent findings recorded by the Courts below whereby plea of the appellant for issuance of mandatory injunction directing the defendants to execute sale deed qua suit land in favour of the appellant has been rejected.

Perusal of the records reveals that the appellant filed Civil Writ Petition before this Court which was decided with a direction to dispose of the representation of the appellant. In pursuance thereof, the Deputy Commission passed an order and a detailed reference thereof has been made in the judgment. It appears that the order passed by the Deputy Commissioner has not been challenged in the present case.

Arguing counsel for the appellant is stated to be in personal difficulty.

Be listed on 9.3.2018.”

Counsel for the appellant would fairly inform that order passed by the Deputy Commissioner, Sonapat dated 2.1.2002 (Ex. D-40) in pursuance of the directions issued by the Punjab and Haryana High Court in Writ Petition No. 715 of 2001 decided on 29.10.2001, reproduced in extenso in para 23 of the judgment passed by the trial court, was neither challenged by the appellant in the suit nor in any other appropriate proceedings, therefore, the same stands as it is till date. As the appellant sought mandatory injunction directing the respondents to execute sale deed in his favour without challenging the order passed by the Deputy Commissioner negating his plea with regard to his entitlement to the suit land, judgments passed by the courts neither suffer from an error nor give rise to a question of law that needs determination in regular second appeal.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine with no order as to costs.

Before parting with this order, it is pertinent to mention that counsel for the appellant sought to rely upon judgment of this court passed in CWP No.5231 of 2015 decided on 26.11.2015 in favour of one Daya Ram who had challenged the order passed by the Deputy Commissioner,

Soenpat which was ordered to be set aside. The appellant cannot derive any advantage to his contention from the referred judgment till the order passed by the Deputy Commissioner is set aside in appropriate proceedings.

(Rekha Mittal)
Judge

20.4.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No