

**CR No.4920 of 2015**

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

**CR No.4920 of 2015**

The Improvement Trust, Ludhiana

....Petitioner

Versus

Atam Nagar Co-Op. House Building Society (Regd.) and Ors.

....Respondents

And

**CR No.8131 of 2015**

Atam Nagar Co-Op. House Building Society (Regd.)

....Petitioner

Versus

The Improvement Trust, Ludhiana and Ors.

....Respondents

**Date of Order: 17.1.2019**

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Ms. Kavita Arora, Advocate  
for the petitioner in CR No.4920 of 2015.

Mr. Namit Gautam, Advocate  
for the petitioner in CR No.8131 of 2015 and  
for respondent No.1 in CR No.4920 of 2015.

Mr. Lalit Rishi, Advocate for  
respondent No.2 (ii) in CR No.8131 of 2015 and  
for respondent No.4 in CR No.4920 of 2015.

**AMIT RAWAL, J (ORAL)**

This common order of mine shall dispose of aforesaid two  
revision petitions since common questions of law and facts are involved in  
the same.

The short point involved in the present case is whether the

pleas raised by the judgment debtors in the objections on the basis of judgment and decrees passed by the trial Court and affirmed by lower Appellate Court which are not part and parcel of evidence led before the trial Court as well as Appellate Court can be agitated, the answer is 'No'.

It is stated that Kedar Nath Gupta/plaintiff instituted the suit for possession as owner of corner Plot No.444 by specific performance of the agreement/allotment letter issued by Atam Nagar Cooperative Society measuring 500 sq yds situated at Model Town Extension Part-II Scheme, Ludhiana and mandatory injunction for execution of the sale deed. It is averred that on representation being made, the Government exempted this land from acquisition and the Society carved plots and allotted the same to the members. Kedar Nath Gupta was founder member of the Society, who made all the payments by 21.12.1985 but the Society did not come forward for doing the needful as per relief afore mentioned.

In the written statement, the Society disputed the notice but did not object to the eligibility of the respondent-plaintiff. The Improvement Trust replied that the land was exempted from the acquisition vide Notification dated 21.09.1982 whereas the plaintiff never approached for obtaining the possession or execution of the same.

From the pleadings of the parties, the trial Court framed the following issues:

- “1. Whether the suit of the plaintiff is not maintainable u/s 79 of the Punjab Co-op Societies Act?OPD*
- 2. Whether the plaintiff has no locus standi to file the present suit?OPD*
- 3. Whether the suit is liable to be dismissed for want of service of notice u/s 98 of the Punjab Town*

*Improvement Act?OPD*

*4. Whether the plaintiff is entitled to the possession of plot by way of specific performance of agreement?OPP*

*5. Whether the plaintiff is entitled to the mandatory injunction prayed for?OPP*

*6. Relief.”*

The trial Court after noticing the evidence brought on record decreed the suit by directing the Society and the Improvement Trust to jointly and severally execute the sale deed and not to allot or give the plot to anybody else except the plaintiff. Appeal preferred before the lower Appellate Court was dismissed vide judgment and decree dated 18.5.2007. In execution application, the Improvement Trust Ludhiana filed objections on the premise that the land in which the plot was allotted by the JD to the decree holder was abandoned by the Government of Punjab Department of Local government unit No.3 vide letter dated 05.3.1987, a copy of which was placed on record by the objectors wherein plot No.444 is shown to be comprised in Khasra No.69,70,71 and 72. The possession of the land was never taken by the objectors nor compensation was given to the JD No.1. In the jamabandi, ownership was of Atam Nagar Society. The objection of the Society was that the decree of the courts below could not be complied with as the plot was not owned or possessed by the Society and thus was not in a position to give/deliver the plot to the decree holder.

The factum of allotment letter No.161 dated 07.4.1983 (Ex.D.2) was referred to and as per clause 7 of the same, possession was to be given by the Society/Improvement Trust. Both the aforesaid objections have been dismissed on the ground that the objections were nothing but an attempt to re-agitate the issue.

Similar arguments have been raised by learned counsel for the petitioner that both the Improvement Trust & Atam Nagar Society had been passing the buck by putting blame on each other.

Per contra, learned counsel for the respondent submitted that it is another attempt made on behalf of the Society and the Improvement Trust to non-suit the plaintiff and the verdict of the decree has to be respected particularly when the Notification indicated exemption of the land and possession was with the Society. Even if the possession was not given, ownership was with one of the parties but they did not come forward for execution of registration of sale deed and thus urged for dismissal of the revision petitions with exemplary costs.

I have heard learned counsel for the parties and after appraising the paper book, I find no force and merit in the submissions of learned counsel representing the petitioner Society/Improvement Trust. The decree of the trial Court has already attained finality and no regular second appeal has been filed to challenge the same. Said objections basically reveal that same stand was taken in the written statement, which has been rejected by the trial Court. I am of the view that it was an deliberate attempt to thwart the lawful right of the plaintiff. This court is totally baffled with the act and conduct of the Improvement Trust as well as the Society, for, the stand of the Society for not complying with the decree is not sustainable nor any plausible explanation has come forth in this respect.

Resultantly, both the revision petitions are dismissed with costs of Rs.10,000/- each to be recovered from the Officer of the Society/Officer of the Improvement Trust, who was responsible in filing the objections much less the revision petitions and to be paid to the plaintiff within a

period of one month. In case the costs is not paid, the plaintiff shall be at liberty to seek any action against the petitioners in accordance with law.

**January 17, 2019**  
**manoj**

**( AMIT RAWAL )**  
**JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No