

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-397-MA-2013
DECIDED ON: 05.03.2019

PUNJAB URBAN PLANNING & DEVELOPMENT AUTHORITY
LUDHIANA (PUDA)

...PETITIONER..

VERSUS

BHUPINDER SINGH AND ORS.

...RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ashish Grover, Advocate for the petitioner.
None for the respondents.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 378(4) Cr.P.C. the complainant has laid challenge to judgment dated 24.12.2012 of the trial court, dismissing its complaint filed against the respondents under Section 36 of the Punjab Apartment and Property Regulation Act, 1995 (for short, "Act").

According to the applicant, respondents developed an unauthorised colony without obtaining licence in violation of Section 2(1) clause 5 of the Act, and seeking approval from the Government.

Briefly, applicant filed complaint against the respondents under Section 36 of the Act for carving out an unauthorised colony, which after holding trial, was dismissed on 24.12.2012, thereby acquitting the respondents.

Learned counsel for the applicant inter alia contends that trial

court has failed to appreciate that respondents have carved out an authorised colony illegally in violation of Section 2(1) of the Act and sold plots by dividing the land into plots of the size of more than 1000 sq. Mtr. The trial court has illegally acquitted the respondents on the ground that applicant did not legally proved any sale deed allegedly executed by the respondents in violation of the Act, ignoring the fact that same were well proved on record as Ex. C-3 to C-39, in accordance with law. Sanction to prosecute the respondents in the impugned complaint was also obtained as Ex.C-41, but the trial court illegally recorded that the same was not obtained.

Having given thoughtful consideration to the submissions, this Court finds instant application completely devoid of any merit for the reasons to follow:-

(1) According to the applicant, respondents had executed 36 sale deeds i.e. Exh. C-2 to C-39 to different people, selling several thousand meters of agricultural land, but could not prove the same, in view of the fact that out of the total sale deeds allegedly executed by the respondents, it, only got proved sale deeds Exh. C-3 to C-39 through CW-3 Ms.Veena Arora an official of the sub-Registrar East (Ludhiana), but failed to lead any evidence, as to who had executed those sale deeds. No doubt, a registered document is a public document, but, still its due execution is required to be proved beyond doubt.

In the instant case, the applicant simply relied upon the

aforesaid sale deeds, coupled with a site plan, not mentioning the area in the impugned complaint, for which the respondents had executed sale deeds in violation of Section 2(1) of the Act.

2. The applicant also did not clarify as to what was the total area sold by the respondents and whether it was beyond 1000 meter. The applicant was required to produce a chart calculating the entire area allegedly sold by the respondents vide aforesaid sale deeds Ex.C-3 to C-39 to prove that the same was beyond 1000 meter.

The trial court has observed that there was also discrepancy in khasra No.15/1, being not mentioned in the complaint, but shown in the site plan Ex.C-1 relied upon by the applicant. The said khasra number was divided into two sites, admitted by own witness of the applicant i.e. CW-2, having a distance of one and half kilo meter. Therefore, it cannot be said that the respondents carved out a colony by dividing the plot beyond 1000 meter. The allegations against the respondents were vague and unambiguous.

I have gone through the impugned judgment dated 24.12.2012, and find no illegality and perversity in the same. Consequently, the same is upheld.

Dismissed.

05.03.2019

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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No