

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

**RSA No.2640 of 1997 (O&M)
Date of Order:07.01.2019**

Suresh Gupta

..Appellant

Versus

The Improvement Trust, Ludhian and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Umesh Aggarwal, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below while dismissing suit for grant of a decree of permanent injunction.

Plaintiff claims that he was allotted Flat NO.5-TF 3rd Floor in 8.4 acres Development-cum-Housing Recommendation Scheme at Pakhowal Road, Ludhiana. He claims that a show cause notice has been issued to him by the Government of Punjab under Section 72(e) of the Punjab Town Improvement Act, 1922. The Government of Punjab has not been impleaded as party. Still further no material has been placed to what has happened to the cause of action. The Government of Punjab had issued show cause notice while noticing the following illegalities in the allotment:-

- “i) The then Chairman Improvement Trust, Ludhiana did not follow procedure for allotment of such flats under Rule 8 and 11 of the Utilization of land and Allotment of Plots Rules 1983 while making allotment in your favour. This

allotment was made in your favour in violation of the provision of these rules.

- (ii) It was pre-requisite to deposit the earnest money along with the application for the allotment of flat but you did not deposit the same along with the application in the first instance.
- (iii) The requisite affidavit as provided under the allotment Rules *ibid* was not submitted with your application and no proof of your annual income at the time of allotment was furnished while applying for the same.
- (iv) The Chairman was not competent to make such an allotment in the manner it was done and as such this allotment is illegal one.
- (v) You submitted an application for the allotment of a flat and without following the procedure and without submission of the documents required and got this allotment made in your favour in collusion with the Chairman and such an allotment which was got made with unfair means cannot be given effect.
- (vi) You failed to deposit the first installment within the stipulated period and furnish the documents required from you within time.
- (vii) You failed to execute the agreement deed for the sale of his flat within stipulated period and as such not binding contract has come into being between the parties.”

Since, the allotment was sought to be annulled by the

Government which was not impleaded as a party to the litigation, therefore, the suit has rightly been dismissed by the courts being not maintainable.

Learned counsel for the appellant submitted that even if any illegality has been committed by the Chairman of the Improvement Trust, Ludhiana, still he cannot be made liable for the same.

This court has considered the submission but find no merit therein.

The property belongs to a public body and such body or its officials are expected to carry out allotment in accordance with the procedure laid down in the Act and the Rules. Still further, learned counsel appearing for the appellant was unable to inform the court as to what has happened to the show cause notice. This is only a simpliciter suit for injunction.

Keeping in view the aforesaid facts, the regular second appeal is dismissed with liberty to the plaintiff to challenge the order of cancellation passed, if permissible in law.

January 07, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No