

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

-.-

RSA 2018 of 2019 (O&M)
Date of decision: 25.09.2019

Harbans Lal

.....Appellant

Versus

Union of India and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Jagtar Kureel, Advocate
for the appellant

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Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for declaration, mandatory and permanent injunction filed by the appellant/plaintiff was dismissed by the trial Court vide judgment and decree dated 15.01.2016 and appeal preferred by unsuccessful appellant was dismissed by the Additional District Judge, Chandigarh on 18.12.2018.

The plea set up by the plaintiff/appellant is that he is carrying business of ready-made garments and other gift items opposite booth Nos. 4 and 5, Shastri Market, Sector 22-C, Chandigarh since 1986. Officials of defendants No. 1 and 2 conducted survey in the year 1988 for allotment of permanent site to many persons under the Rehabilitation Scheme and the plaintiff's name appears in the survey list. Licence No. HL 1943 and provisional identity card for allotment of booth vide registration No. 1371

were issued by defendant No. 2. Many persons were allotted built up booths but the plaintiff was not allotted any booth. He prayed that till an alternative site is allotted to him, the defendants may be restrained from dislodging him from the site from where he is operating presently.

Both the Courts consistently held that the appellant/plaintiff has failed to establish his claim for allotment of an alternative site under the Rehabilitation Scheme/Tenements Scheme 1979 (in short, '1979 scheme'), therefore, plea raised by the appellant was rejected and eventually, suit was dismissed by the trial Court and findings were affirmed in appeal.

Counsel for the appellant, in response to a query, would fairly inform that case of the present appellant does not fall within the purview and ambit of 1979 scheme but his case would be covered under the Allotment/Transfer of Built Up Booths in any Sector on Lease/Hire Purchase basis in Chandigarh Rules, 1991 (in short, '1991 Rules'). He would further submit that mentioning of a wrong scheme should not cause prejudice to the appellant/plaintiff seeking allotment of an alternative site and till then he be permitted to continue with his business at the present site.

Be that as it may, it was categoric case of the appellant/plaintiff with regard to his entitlement to allotment of an alternative site under the 1979 scheme. At no stage of the proceedings, he pressed his claim under the 1991 Rules sought to be invoked in the second appeal. Since case of the present appellant is not covered under the 1979 scheme invoked by him for asserting his right to allotment of an alternative site, I do not find an error much less perversity in consistent findings recorded by the Courts rejecting plea of the appellant/plaintiff.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine. However, nothing stated hereinbefore would cause prejudice to the appellant to approach the competent authority for allotment of an alternative site, under relevant rules.

(Rekha Mittal)
Judge

25.09.2019
Mohan Bimbra

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No

