

ESA No.38 of 2019 (O&M)

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

ESA No.38 of 2019 (O&M)
Date of Decision: 08.07.2019

Ramesh Kumar

...Appellant

Versus

Inderjeet Gupta and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. P.R. Yadav, Advocate,
for the appellant.

RAMENDRA JAIN, J. (ORAL)

Written short synopsis and list of dates and events filed by learned counsel for the appellant in Court today is taken on record.

Appellant, who is stranger to the litigation between one Soni Bai and State of Haryana qua allotment of land to her husband Krishan Dass, being a displaced person after migration from West Pakistan, who after partition of the country in the year 1947 on coming to India, was allotted certain land in the revenue estate of Narnaul, District Mahendergarh, in lieu of properties left by him in Pakistan, has filed instant ESA.

Briefly, Krishan Dass was allotted 5 standard acres of land in Narnaul, which was confirmed vide allotment letter dated 19.04.1961 (Ex.P5) issued by the Assistant Settlement Officer, Jullundur. Krishan Dass after allotment of the land, sold away one standard acre. In the meantime,

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allotment of 1 standard acre and $2\frac{3}{4}$ units comprising khasra number 2853 allotted to Krishan Dass was cancelled because of some Government policy, according to which a premium of 40% was to be charged from all the allottees and the same was reflected in the revenue record also. Deceased Krishan Dass laid challenge to the same before the Assistant Registrar-cum-Managing Officer, Haryana, who accepting his appeal vide order dated 25.04.1967 holding that 40% premium was not to be charged from Krishan Dass, re-allotted 1 standard and $2\frac{3}{4}$ units which was earlier cancelled. Thereafter, Krishan Dass died before taking possession of 8 biswas of land comprising khasra No.2853, which was under the occupation of Health Department. Consequently, his widow Soni Bai filed a suit for possession, which, after notice to the State Government, was decreed in toto vide judgment and decree dated 20.03.1984.

Being aggrieved, State Government approached First Appellate Court, which setting aside judgment and decree dated 20.03.1984 negating claim of Soni Bai, dismissed her suit vide judgment and decree dated 23.04.1987.

Being aggrieved, Soni Bai approached this Court by way of Regular Second Appeal, which was accepted vide judgment and decree dated 05.03.2010. Hence, judgment of the trial Court dated 20.03.1984 attained finality being not further challenged in the Apex Court.

Appellant claiming himself to be an interested person being a resident of locality remained silent for 26 years in between the years 1984 to 2010. His silence for such a long period is unexplained on the file. How,

later on he came to know execution of the aforesaid decree is also

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unexplained. During the pendency of aforesaid litigation between Soni Bai and State Government, respondent-decree-holder in the year 1986 filed a suit for specific performance against Soni Bai, which was decreed. Consequently, sale deed No.1212 was executed and registered in favour of decree-holder Inderjit Gupta by order of the Court in the year 1996. Thereafter, Inderjit Gupta filed execution petition, in which appellant filed his third party objections.

After hearing both the sides, executing Court dismissed the objections vide impugned order dated 07.01.2015.

Being aggrieved, appellant approached First Appellate Court, who too dismissed his appeal vide judgment dated 26.03.2019.

Learned counsel for the appellant *inter alia* contends that khasra No.2853 was never allotted to Soni Bai or her deceased husband. Therefore, decree-holder Inderjit Gupta cannot get possession of the said khasra number by way of his execution claiming himself to be successor of Soni Bai on the basis of some judgment and decree which was passed after the death of Soni Bai concealing her death much prior to passing of the decree. Executing Court failed to appreciate that judgment and decree in favour of decree-holder Inderjit Gupta was based on fraud and, thus, was not executable as brother of Inderjit Gupta, namely, Premnath Gupta, who was Advocate of Soni Bai filed admitted written statement concealing factum of her death. Even otherwise, Soni Bai was not owner of any inch of the land as her husband during his lifetime sold his entire land vide sale deeds Annexures A-26 and A-27.

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by learned counsel for the appellant, this Court finds the instant appeal completely frivolous and a dis-honest litigation for the reasons to follow.

Appellant has no *locus standi* to challenge any judgment and decree in favour of respondent-decree-holder Inderjit Gupta, being a stranger. He has no interest in the land allotted to Soni Bai or her deceased husband. He simply claimed his right in the suit land being an inhabitant of District Mahendergarh.

Inderjit Gupta has been declared owner of the suit land by way of decree for specific performance. Legal heirs of Soni Bai or any other interested person have not challenged the decree in favour of Inderjit Gupta till date, which was passed long back in the year 1986 i.e. around 33 years back and thus attained finality.

It is pertinent to mention that Inderjit Gupta got sale deed executed and registered in the year 1996 with the help of Court qua khasra No.2853 and filed execution petition.

There is long drawn litigation between Soni Bai and decree-holder Inderjit Gupta on one hand and Government on the other. The State Government did not ever come forward to lay challenge to judgment and decree dated 20.03.1984 in favour of Soni Bai. Therefore, objections of the appellant being completely stranger to the entire lis in between Government and Soni Bai or Inderjit Gupta have rightly been dismissed by the executing Court and the appellate Court as well. Instant litigation by the appellant seems to be outcome of sheer greed to exploit and blackmail the decree-holder by adopting legal recourse, despite having no *locus standi*. Such

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I have gone through order and judgments of both the Courts below and find no illegality or perversity in the same.

Dismissed.

July 08, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No