

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-4035-2019 (O&M)

Date of decision: 30.08.2019

Narinder Kumar

..... Appellant

Versus

Chairman, Punjab Mandi Board and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Dinesh Mahajan, Advocate for the appellant.

RAMENDRA JAIN, J. (ORAL)

Through this regular second appeal, appellant-plaintiff has laid challenge to judgment and decree dated 05.07.2019 of lower Appellate Court, affirming judgment and decree of trial Court dated 24.09.2018, whereby his suit for permanent injunction was dismissed, with costs.

Briefly, appellant-plaintiff, claiming himself to be owner in possession of suit land measuring 12 marlas along with other co-sharers fully detailed in the head note of judgment of trial Court, situated in village Daulatpur, Tehsil and District Pathankot, filed a suit for permanent injunction against respondents, pleading that initially, his father Harbans Lal @ Sarbans Lal, was owner in possession of suit land to the extent of half share measuring 6 marlas and on the remaining half a temple of '*Kali Mata*' was constructed. Harbans Lal @ Sarbans Lal,

expired and his estate was inherited by appellant along with other co-sharers. Consequently, mutation was also sanctioned in their favour. Appellant was taking care of aforesaid temple, after the death of his father as 'Pujari'.

Upon notice, respondents contested the suit tooth and nail. After holding trial, trial Court dismissed the suit vide judgment and decree dated 24.09.2018.

Being aggrieved, appellant approached the Ist Appellate Court, but remained un-successful as his appeal too, was dismissed vide impugned judgment and decree dated 05.07.2019.

Learned counsel for the appellant *inter alia* contends that both the Courts below have failed to appreciate that simpliciter suit of the appellant was for permanent injunction, restraining the respondents from interfering into his possession over suit land. Therefore, the same in view of the provisions of Section 24(2) of Land Acquisition (Rehabilitation and Resettlement) Act, 2013 (in short-'the Act'), could not have been dismissed, inasmuch as, possession of suit land even after expiry of 5 years has not been taken till date by the respondents and is with the appellant.

Having given anxious considerations to the submissions of learned counsel for the appellant, this Court finds the instant regular second appeal merits dismissal for the reasons to follow:

Undisputedly, suit land was acquired by the respondents in the year 1977 and thus, vested in them free from all encumbrances.

Admittedly, ₹83,852.50P was paid as compensation for each

of super structures standing on the acquired land and appellant had received ₹83,853/-. Possession of suit land was also taken on 18.03.1977. Therefore, appellant had left with no right, title or interest in the suit land as it vested in the respondent free from all encumbrances.

In view of the above factual position, plea of the appellant that he is still in possession is *prima facie* false. He cannot be allowed to take advantage of Section 24(2) of the Act, inasmuch as, he had already withdrawn compensation of ₹ 83,853/-.

No question of law, much less substantial, has been raised in this regular second appeal. Hence, the same is held not maintainable.

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

Dismissed.

August 30, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**