IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2118 of 2016 (O&M)
Date of Decision.13.05.2019

Amardeep Kaur ...Appellant

Vs

Nagar Panchayat Mahilpur and another ..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Arun Takhi, Advocate
for the appellant.

-.-

AMIT RAWAL J. (ORAL)

The short point involved in the present case is whether the plaintiff could seek mandatory injunction against respondent No.1 i.e. concerned Municipal Committee for acceptance of the house tax in the absence of title or against the record.

It was alleged that the civil suit was filed in the Lok Adalat claiming ownership of shops No.4 and 5 which was disposed of by the Lok Adalat as withdrawn on 20.10.2007. Defendant No.2 challenged the aforementioned order by way of suit to be null and void as well as alleged writing dated 01.08.2005, which was dismissed as withdrawn.

Plaintiff staked claim of the ownership on the basis of some gift deed and as well as the dismissal of the suit of the defendant.

Defendant No.1 denied the claim of the plaintiff and stated that her name was not recorded in the revenue record or for the purpose of assessment of house tax, therefore, there was no scope to accept the house tax.

Defendant No.2 also opposed the suit.

Mr. Takhi, learned counsel appearing on behalf of the appellant submitted that aforementioned facts lead to irresistible conclusion that plaintiff deemed to have been owner of the shops as well as by virtue of the gift deed, which has not been proved on record through testimony of witnesses. Once defendant had given up his claim with regard to shops No.4 and 5, the order of the Lak Adalat remained intact. The mandatory injunction, thus, was essential and necessary as plaintiff was left in lurch.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit. The suit could not have been entertained by the trial Court in the absence of any declaratory relief against the person asserting the right in the property insisting the Municipal Committee to accept the house tax. The genesis of the claim in the suit had to be on the basis of title, which remained a mystery as the gift deed had not been proved on record. Mere claiming ownership regarding shops would not hold the plaintiff owner.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact and law rendered by the Courts below, much less, no substantial question of law arises for determination by this court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 13, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No

PANKAJ KUMAR
2019.05.17 17:15
I attest to the accuracy and
integrity of this document